# THE WRITINGS

OF

# JAMES MADISON

VOLUME I.

1769–1783

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The life-sized marble medallion bust of James Madison was made in Philadelphia in 1792, when Madison was forty-one years of age, by the Italian sculptor, Giuseppe Ceracchi. It hung on the walls of Montpelier until after Madison's death and was considered by his contemporaries to be the most faithful of the likenesses of him. It was purchased from Mrs. Madison's estate by the late J. C. McGuire, Esq., of Washington, and purchased from the McGuire estate for the Department of State by Secretary Thomas F. Bayard.

# THE WRITINGS

OF

# JAMES MADISON

COMPRISING HIS PUBLIC PAPERS AND HIS PRIVATE CORRESPONDENCE, INCLUDING NUMEROUS LETTERS AND DOCUMENTS NOW FOR THE FIRST TIME PRINTED

EDITED BY

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VOLUME I.

1769–1783

UNIV. OF CALIFORNIA

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UNIV. OF CALIFORNIA

BECAUSE OF HIS EMINENT SERVICES TO AMERICAN HISTORY

AND BECAUSE HE IS MY FRIEND

I DEDICATE THESE VOLUMES

TO

WORTHINGTON CHAUNCEY FORD

EDITOR OF

"THE WRITINGS OF GEORGE WASHINGTON"

281836

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# JAMES MADISON.

James Madison's family traditions were wholly colonial and extended back to the first settlement of Virginia. With the mother country he had no living connection, and only one member of the family, his second cousin, Rev. James Madison, received any part of his education there. England was not, therefore, home to the Madisons as it was to many other Virginia families, and there were no divisions of the house and consequent heartburnings when the separation came, but all of them embraced the patriot cause in the beginning and without hesitation. From the shores of Chesapeake Bay, where James Madison's direct ancestor, John Madison, received a patent for lands in 1653, the family pushed its way inland towards the Blue Ridge mountains, and his grandfather, Ambrose, occupied the tract in Orange County where his father, James, and himself spent their entire lives. He was thus completely a Virginian, and his life was well rooted, as George Eliot has expressed it, in a spot of his native land, where it received "the love of tender kinship for the face of earth." During the eighty-four years of his life he was never continuously absent from Montpelier for a twelvemonth.

The Virginia convention of 1776 was composed chiefly of men past the middle period of life; but there

was a small circle of young members who afterwards rose to eminence, among whom was Madison, then but twenty-three years old. He was known personally to few of his colleagues and was mastered by a shrinking modesty, which kept him in the background; but he had the reputation of being a scholar and was put on the committee to draw up the Declaration of Rights. He made one motion in the convention, offering a substitute to the clause relating to religious freedom.[1] It was not accepted as he presented it, but a modification, eliminating a chief objection to the clause as originally presented by the committee, was adopted. If Madison's clause had been taken as he wrote it, there would have been no occasion for the subsequent struggle for complete religious freedom in Virginia, for it was so sweeping that any further progressive action would have been redundant. The offering of this amendment was Madison's first important public act, and his belief that it was right was the strongest belief he had at that time.

He was then a profoundly religious man, and his family surroundings were Episcopalian. When he returned home after his graduation from Princeton in 1772, he plunged into religious studies, wrote commentaries on the gospels, and acquired an extensive knowledge of theological literature. His education at a Presbyterian college, the love of liberty which was a passion with the young Americans of his school, the ill-repute surrounding the clergy of the English church in Virginia, the persecution which he saw

[1] His amendment may be seen on pp. 40, 41.

visited upon the Baptists in his section of the State—all combined to make him champion the cause of absolute religious freedom and separation of church from state. Beginning with the convention of 1776 he fought for this step by step, until it was finally secured by Jefferson's bill, which Madison introduced in the legislature, but which need never have been written had Madison's amendment to the Bill of Rights been accepted. Madison was a strong man who walked through life alone and did not disclose his inner thoughts on vital personal questions. What his religion was has thus always been a matter of dispute. To Episcopal clergymen his course did not render him popular, and, although he attended their church, he was not a communicant. Agnostics often claim him as having been one of them, chiefly because he was a friend of Jefferson's and is supposed to have been influenced by him; but he made his religious studies, took his first radical stand for disestablishment, and had probably formed his religious views before he knew Jefferson. Non-Episcopal clergymen, although not claiming him as a member of any of their sects, have written of him gratefully. Undoubtedly, he sympathized with them, and he had warm friends among them. He believed in the existence of sects and used to quote Voltaire's aphorism, "If one religion only were allowed in England, the government would possibly become arbitrary; if there were but two, the people would cut each other's throats; but as there are such a multitude, they all live happy and in peace."[1]

[1] Rives's *Life and Times of James Madison*, ii., 220.

As Madison was an advanced thinker on religious subjects, so was he beyond his time as an economic reasoner. In his correspondence with Jefferson he always met the daring speculations of that philosopher with views and conclusions carefully matured. Twenty years before Malthus published his *Essay on the Principles of Population* Madison reached substantially the same conclusions, as his writings show. He welcomed Malthus's work when it appeared, as he had done Adam Smith's.

On the subject of slavery he and his friends stood together in a frank admission that it was a crushing public and private evil, and he earnestly desired to find a means by which his State and himself might escape from it. On his return to Montpelier from Congress in December, 1783, he took up the study of law, having for one object, as he wrote, to gain a subsistence, depending "as little as possible upon the labor of slaves." September 8, 1783, he wrote to his father that he was unwilling to punish a runaway negro simply "for coveting that liberty for which we have paid the price of so much blood and have proclaimed so often to be the right and worthy the pursuit of every human being." In the convention that framed the Constitution Madison and George Mason worked together in opposition to the pro-slavery labors of South Carolina and other Southern States. In the first Congress under the Constitution "The Humane, or Abolitionary Society" of Virginia, composed chiefly, if not wholly, of Quakers, requested him, as "a friend to general liberty," to introduce their memorial against

the slave trade and asked his judgment on a proposition to petition the Virginia Legislature for a law declaring all slave children born after the passage of the act free at the age of eighteen for the women and twenty-one for the men.[1] This was similar to the scheme of emancipation which Jefferson entertained, but which he did not bring forward, because "the public mind would not yet bear the proposition." It never became able to bear an emancipation proposition, and Madison lived and died a humane slaveholder opposed to the institution of slavery.

When Madison went into the Continental Congress, March 20, 1780, he was probably the youngest member, and he looked younger than he was; but he had conquered his modesty and was able to speak his views when occasion required. The most important subject before the Congress was that of meeting the public expenses. Paper money was piled upon paper money; commerce had fled; there was hardly any specie to be had; the States found it difficult and were often disinclined to raise respectable revenue by taxation. Madison led the fighting for a funding of the debt, the prohibition of further paper emissions, and an adequate continental revenue by a five per cent. tax on all imports. The day that he made one of his strongest speeches in favor of the last-named proposition news was received that the Virginia Legislature, which had previously agreed to it, had withdrawn its assent. Nevertheless, he did not lessen his labors, but took the extraordinary course of disregard-

[1] Department of State, Madison MSS.

ing the Legislature's instructions. In this matter he acted from a national standpoint, for Virginia's interest was the same as that of the other States.

In advocating an insistence upon the right of America to the free navigation of the Mississippi River from the source to the sea, he stood for a measure more vital to Virginia than it was to any other State. The first elaborate state paper to come from his pen was the instruction to Jay at Madrid on this subject, and it is not too much to say that no member of the Congress could have prepared the instruction so well.

Madison's service in Congress at this time and later laid bare before him all the insufficiencies of the Articles of Confederation, and it was his fortune to participate in each successive step that led to the formation of the Constitution. When he went into the convention he was better equipped for the work that lay before it than any other delegate. After his election he arranged the notes which he had gathered laboriously in the course of years of experience and study. These notes covered the governments of the world, ancient and modern, as they furnished illustrations likely to affect the forming of a new government for America, and they also contained a carefully arranged description of the weakness and vices of the existing government. He had one primal object before him — to evolve a scheme for a stronger government which would remedy the defects of the Articles of Confederation and *which the people would accept.* He was without pride of personal

opinion and was always willing to compromise when by doing so his main object would not be lost. As the Constitution was not written by any one member of the convention, so was it not wholly satisfactory to any one member. Madison had no cut-and-dried constitution in his pocket when he went to Philadelphia; but, keeping the general principles of the Virginia plan before him, he set himself to the task of accomplishing a result. He was more continuously in his place than any other member and spoke frequently and always temperately and to the point. When a division of sentiment among the members was so pronounced as to make any conclusion seem improbable, he was patient and hopeful, and returned to the subject when all were in better humor. As the days wore on he came to be recognized as the leading man in the convention, and when the Constitution was finally sent to the people for their judgment, it was generally known that Madison, more than any one else, had wrought it into shape.

Eight States had ratified the Constitution when the Virginia convention met to consider it, and the ratification of nine States was necessary to put it into effect. It was confidently believed, therefore, that its fate would be decided by Virginia's action. When it first reached the State, it was generally approved; but as each man began to study it many found objections to it, and the preponderance of influential men was on the side of its rejection. When the convention met, George Mason and Patrick Henry led the opposition, and Madison, George Nicholas, and Edmund

Randolph led the forces in favor of ratification. Madison was fresh from the convention that framed the Constitution ; he had recently written his numbers in the *Federalist ;* he could speak readily, and there was hardly an argument against the Constitution for which he did not have the best answer ready prepared. The chief fighting was waged between him and Henry. Madison was constantly on his feet, and during four days he spoke thirty-five times. Henry was supposed to be invincible before a Virginia assemblage and was unquestionably the most powerful man before the people in the State. Madison beat him, and his victory was the greatest triumph of his life. Quick upon the heels of each other had followed his success in the convention that framed the Constitution, his success in conjunction with Hamilton and Jay in turning the growing sentiment against the Constitution by the publication of the *Federalist*, and the crowning success of carrying the ratification in Virginia. This may be said to have marked the culmination of that part of his career which was unquestionably the greatest. The rest was made up of earnest work and high honors, but the achievements winning for him a great place in history were those of the period before the government under the Constitution went into operation.

In the first House of Representatives he was a leader, but he soon became the leader of a party. He and Hamilton had frequently co-operated before the Constitution was formed, and they stood together as the two most effective champions of ratification the

Constitution had; but they naturally fell apart after the government was established and parties, as exponents of different habits of thought, were formed. Their surroundings and training had been dissimilar, and they did not agree in disposition. If Hamilton's theory of government was the more scientific, Madison's had a broader basis of popular desire; at any rate, they were different. The two men could not be coadjutors without one or the other changing his views. It is therefore as unjust to accuse Madison of having deserted Hamilton as it would be to accuse Hamilton of having deserted Madison. They were active opponents in their views as to how the Constitution should be interpreted in the conduct of the government, and, being earnest and positive, they drifted into distrust and injustice toward each other, as political opponents nearly always do.

The parties were divided to a great extent on sectional lines, and Madison was a Southerner and a Virginian. The narrow sectionalism that then prevailed needs no explanation. There was no national feeling overspreading the continent, nor could it be forced into being. The States were jealous of each other, and the Articles of Confederation had really been as strong a scheme of national government as the people would stand at the time. So cultured a man as Edmund Randolph wrote some years after the Constitution had been in operation, "you see I am not yet really an *American*." Madison was biased in his political actions by a preference for the welfare of Virginia over that of any other State. Washington

alone of the active statesmen of that day manifested a wholly unprejudiced national spirit. The interests of the North and the South were opposed, and Madison bent his energies to keep in control the interests of the South. He never liked New England men, and all of his intimate friends were Virginians. He was as much of a Southerner as John Adams was a New Englander, and more need not be said.

Few sympathizers with the Federalist party of a hundred years ago can now be found to defend the Alien and Sedition Laws which wrecked that party. They were conceived in a spirit of intolerance and had all the ingredients in them of tyranny and oppression. In opposing them many Republicans went to the opposite extreme and uttered sentiments which they lived to regret. Madison wrote the Virginia resolutions of 1798, and, while they are not necessarily Calhounism, he lived long enough to be obliged to defend them against the charge that they contained the germs of nullification.[1]

When Madison became Secretary of State he and his chief determined upon the inauguration of what they hoped to make a new American policy in international intercourse. "If a treaty is proposed," wrote Robert R. Livingston to him July 1, 1801, "that is not to be supported by arms, but by commercial exclusions, that shall not refer to the present war,

[1] It is a fact worth noticing in passing that Edward Livingston, who opposed bitterly the Alien and Sedition Laws and championed the Virginia and Kentucky resolutions in the House of Representatives, wrote Jackson's proclamation against the nullifiers thirty years later, and that the Union party of South Carolina frequently appealed to the Virginia resolutions as offering sound doctrine in their opposition to Calhoun's creed.

and shall be open to all nations that choose to adopt it, I think it cannot fail to meet with sufficient support to establish a new law of nations, and that our administration will have the glory of saying, in the words of the prophet, 'a new Law I give unto you, that you love one another.'"[1] Madison was not an enthusiast and did not share Livingston's extravagant hopes; but he had been an advocate of commercial retaliation as the most effective weapon to employ against Great Britain from the time of the first Congress, when he introduced his tonnage bill. He saw his policy carried to the extreme of an absolute refusal to trade at all with a country with which we were not yet at war, and he saw it fail miserably of its purpose. When he stepped from the office of Secretary of State up to that of the Presidency, he was warned in the beginning that a continuance of the embargo would wreck the administration that continued it. Furthermore, he was told that perseverance in it would produce in New England "open and effectual resistance to the laws of the Union."[2] At no time after the adoption of the Constitution were the dangers from without and within so menacing. With fluctuations of false hopes the inevitable came; the cherished "American Policy" was thrown to the winds, and Madison found himself at the head of a nation at war. He was a rounded-out statesman of wide experience and ripe knowledge, but of martial spirit he had none. He was a man of peace and of books. His physique was weak, and he cared nothing for manly sports.

[1] Department of State, Madison MSS. [2] *Ibid.*

Nowhere in the record of his life is there a hint that he ever had a quarrel which approached culmination in a personal encounter. His blood flowed temperately, and he hated war, and his incapacity as a war President was painfully manifest.

The country was not united, and he had not force enough to unite it. A treasonable faction was breeding in New England, and he knew not how to crush it. A vigorous leader of men and of popular forces was what the occasion demanded, and Madison did not meet the requirements. Such success as the war achieved owed nothing to him. An honorable peace and a reaction of prosperity and calm gave him an opportunity to conclude his administration creditably, and he retired from public life with a great reputation; but he had really won it before he became President.[1]

In private life he set an example of beautiful simplicity and purity. No breath of scandal was ever raised against him. No man ever accused him of untruth or meanness. He was gentle and sympathetic towards all who approached him. He was generous in giving and dispensed a free hospitality. While he never introduced a jest into a public speech and

[1] At a dinner party in Washington in March, 1829, Henry Clay and his political opponent Samuel Harrison Smith, of the *National Intelligencer*, were analyzing the characters of Jefferson and Madison. "Mr. Clay preferred Madison and pronounced him after Washington our greatest statesman and first political writer. He thought Jefferson had the most genius — Madison the most judgment and common sense — Jefferson a visionary and theorist, often betrayed by his enthusiasm into rash imprudent and impracticable measures — Madison cool, dispassionate safe."—From a private letter of Mrs. Smith's to her son among the family papers of J. Henley Smith, Esq., of Washington.

rarely into a letter, he had a rich fund of humor, and his good stories went from mouth to mouth among his friends. His household was one of rare happiness and innocence, and perhaps the highest tribute to his private worth was paid by the hundred slaves who stood around the grave at his funeral and gave an extraordinary exhibition of the genuineness of their grief.[1]

* * *

During the closing years of his life Madison occupied himself in arranging his papers and especially those relating to the framing of the Constitution. He bequeathed them to his wife,[2] intending that she should immediately publish the debates in the Congress of 1782, 1783, and 1787, the debates in the constitutional convention, the proceedings of the Congresses of 1776, and a limited number of letters, as he had arranged them. Through St. George Tucker she offered the work to the Harpers and through her son to other publishers,[3] but was unable to come to a satisfactory agreement with any of them. Francis Preston Blair, the publisher of the *Congressional Globe*, offered to publish the work, but doubted whether much profit would accrue and suggested that her best plan would be to fix a sum to cover the profit she expected and offer the manuscript to Congress at that price. He promised to assist her

[1] See the testimony of an eye-witness, James Barbour, in his Eulogium, Washington, 1836.

[2] See his will, dated April 15, 1835.

[3] St. George Tucker and Mrs. Madison, August 23, 1836. N. Y. Public Library (Lenox) MSS.

in securing the appropriation.[1] She had, however, already offered the papers to the government in her letter of November 15, 1836, to President Jackson. A copy of this letter was laid before Congress in a special message dated December 6, 1836. Madison's neighbor and friend, James Barbour, acted as her agent and told her that $100,000, the sum she at first said she expected, was out of the question,[2] but that she could get $30,000 for the papers. This amount was appropriated by Act of March 3, 1837.[3] July 9, 1838, Congress authorized the publication of the papers.[4] Henry D. Gilpin, of Pennsylvania, then Solicitor of the Treasury, was selected as the editor, and the work was published in three volumes in Washington in 1840 under the title of *The Madison Papers*. May 31, 1848, Mrs. Madison being then, through domestic misfortunes, in distressed circumstances, Congress appropriated $25,000 to purchase all the remaining manuscripts of Madison's in her hands.[5] This, with the first purchase, forms the magnificent collection of Madison's writings now deposited in the Department of State. August 18, 1856,[6] Congress authorized the printing of the papers of the second purchase, and a part of them appeared as *The Works of James Madison*, published in four volumes in Washington in 1865.

Mr. J. C. McGuire, of Washington, a family con-

[1] Francis Preston Blair to Mrs. Madison Nov. 26, 1836. N. Y. Public Library (Lenox) MSS.

[2] James Barbour to Mrs. Madison, December 22, 1836. N. Y. Public Library (Lenox) MSS.

[3] Stats. at Large, v., 171.

[4] *Ibid.*, 300.

[5] *Ibid.*, ix., 235.

[6] *Ibid.*, 117.

nection of the Madisons, who amassed in the course of his life an extraordinary collection of Madisoniana, printed in 1859 (Washington) "exclusively for private distribution" a limited edition in one volume of Madison's letters under the title *Selections from the Private Correspondence of James Madison from 1812 to 1836.* It contained about one hundred letters.

The originals of a few of the letters printed in *The Madison Papers* have been withheld from the editor, and he has been obliged to reproduce them as they were printed, in the first volume of this edition, indicating their source as he has that of every other paper appearing in these volumes. These sources are widely scattered and embrace various public, private, and official depositories, which have been generously opened to the editor.

But two lives of Madison have been published: one a large fragment in three volumes, entitled *History of the Life and Times of James Madison,* by William C. Rives, the first volume of which was published in 1859 (Boston, Little, Brown & Co.), and the third in 1868; the other by S. H. Gay, in the American Statesman Series (Boston, 1884). Of Rives's work it must be said that it is a misfortune it was never finished. It embraces only that part of Madison's career preceding the administration of John Adams. It is redundant and heavy, and the stilted style betrays the diplomatic rather than literary training of the author. But it is a painstaking work, executed conscientiously and after an exhaustive and able study of

the sources of material, printed and unprinted. The standpoint is uncritical, and Mr. Rives shows an extreme partiality for the subject of his work.

None of these remarks is applicable to Mr. Gay's short Life. With ample unused material available, his study does not seem to have gone beyond the printed resources of any good public library, and his attitude towards Madison and all public men of his school is extremely unsympathetic. It is enough to say of his work that it is wholly inadequate to its subject.

GAILLARD HUNT.

FALLS CHURCH, VA.,
August 29, 1900.

# CHRONOLOGY OF JAMES MADISON.

## 1751–1783.

| | |
|---|---|
| 1751. March 16. | Born at Port Conway, King George County, Virginia, at the house of his maternal grandmother. |
| 1751. | Removed to Montpelier in Orange County. |
| 1763. | Sent to school to Donald Robertson in King and Queen County. |
| 1765–9. | Under the private tuition of Rev. Thomas Martin. |
| 1769. | Enters Princeton. |
| 1771. Oct. 7. | Graduates from Princeton. |
| 1772. | Returns to Montpelier. |
| 1773. | At home teaching his younger brothers and sisters. |
| 1774. Spring. | Visits New Jersey and Pennsylvania. |
| 1774. Dec. | Chosen a member of County Committee of Orange. |
| 1775. | Assists in enlisting for defense. |
| 1775. May 9. | Writes the address "To Captain Patrick Henry and the Gentlemen Independents of Hanover." |
| 1776. April. | Elected a member for Orange County of the Virginia Convention. |
| 1776. May 6. | Takes his seat in the Convention. |
| 1776. May 16. | Appointed on the Committee to draft a Declaration of Rights and Plan of Government for Virginia. |
| 1776. June 10. | Offers his amendment for greater religious liberty. |
| 1776. Oct. 6. | Takes his seat in the House of Delegates. |

1776. Meets Thomas Jefferson.

1777. April. Loses re-election to the House of Delegates.

1777. Nov. 13. Elected by the General Assembly to the Governor's Council.

1778. Jan. 14. Takes his seat in the Governor's Council.

1778. At Williamsburg, lodging with his cousin, Rev. James Madison.

1779. Dec. 14. Chosen by the General Assembly a representative in the Continental Congress.

1780. March 20. Takes his seat in the Continental Congress.

1780. Oct. 17. Instructions to John Jay on "Boundaries and Free Navigation of the Mississippi."

1780. Nov. Proposes a discontinuance of emissions of paper money.

1780. Dec. 13. Requests instructions from General Assembly on the Mississippi question jointly with Bland.

1781. Still in Philadelphia.

1781. Receives Benjamin Harrison, "Delegate Extraordinary" from Virginia.

1781. April 16. Discusses project for applying coercive measures to the States.

1781. April. Brings subject of Virginia land cession before Congress again.

1781. Oct. This subject again.

1781. Nov. 13. Suggests that Virginia compliment Lafayette.

1782. Still in Philadelphia.

1782. Jan. 7. The new bank authorized by Congress opened. His distressing personal finances.

1782. May. The Virginia cession again.

1782. July 5. Reports instructions to Adams at The Hague.

1782. Sept. The Virginia cession under debate. He urges compromise.

1782. Nov. 4. Begins his reports of debates in Congress.

1782. Nov. 12. Raises objection to the mode of executing the orders of Congress.

1782. Nov. 21. Moves that Secretary of Foreign Affairs be authorized to keep foreign ministers advised of events in Congress.

1782. Nov. 22. Reports in favor of ratifying Franklin's order liberating Cornwallis in exchange for Laurens.

1782. Nov. 26. Moves that Congress give credit for State emissions of paper money.

1782. Dec. 4. Appointed on Committee to confer with members of Pennsylvania legislature.

1782. Dec. 7. Speaks on subject of depreciation of currency.

1782. Dec. 12. Presents report on publication in a Boston paper of secret proceedings of Congress.

1782. Dec. 16. Presents answer to Rhode Island's objections to proposed impost.

1782. Dec. 24. Communicates to Congress Virginia's repeal of the impost law.

1782. Dec. 31. Urges instructions to ministers to endeavor to secure commercial freedom with Great Britain and dependencies.

1783. Still in Philadelphia.

1783. Jan. 8. Contends against taxation by valuation of land.

1783. Jan. 13. Moves application for further loans in Europe.

1783. Jan. 23. Reports list of books proper for Congress to buy.

1783. Jan. 28. Moves the necessity of permanent funds.

1783. Feb. 7. Brings up question of ascertaining valuation of land.

1783. Feb. 21. Speaks on the subject of general revenue.

1783. Feb. 28. Speaks on same subject.

1783. March 19. Speaks on the treaty of peace.

1783. March 22. Seconds motion to disclose to Spain intended British expedition against Florida confided to Adams.

1783. March 26. Defends the conduct of the American ministers to negotiate treaty of peace.

1783. March 27. Advocates assuming expenses of the States in the war.

1783. April 3. Appointed on committee with Hamilton to report arrangements in consequence of peace.

1783. April 9. Opposes appointment of a committee on the western country.

1783. April 17. Reports amendment providing for determining expenses of the States.

1783. April 26. Address to the States on the subject of revenue.

1783. April 27. Accompanying James Floyd and his daughter, Catherine, to Brunswick.

1783. May 3. Returns to Philadelphia.

# THE WRITINGS

OF

# JAMES MADISON

# *THE WRITINGS OF*

# *JAMES MADISON.*

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TO REV. THOMAS MARTIN.[1] MAD. MSS.

NASSAU HALL, August 16 [17]69.

REV SIR — I am not a little affected at hearing of your misfortune, but cannot but hope the cure may be so far accomplished as to render your journey not inconvenient. Your kind Advice & friendly cautions are a favour that shall be always gratefully remembered, & I must beg leave to assure you that my happiness, which you and your brother so ardently wish for, will be greatly augmented by both your enjoyments of the like blessing.

I have been as particular to my father as I thought necessary for this time, as I send him an account of the Institution, &c &c., and of the College wrote by Mr. Blair, the Gentleman formerly elected President of this place you will likewise find two pamphlets entitled Britannia's intercession for John Wilks, &c., which, if you have not seen it, perhaps may divert you.

[1] The established minister of the parish, Madison's tutor before he went to Princeton. He lived with the family at Montpelier.—Rives's *Life and Times of James Madison*, vol. i., 10.

I am perfectly pleased with my present situation ; and the prospect before me of three years' confinement, however terrible it may sound, has nothing in it, but what will be greatly alleviated by the advantages I hope to derive from it.

The Grammars, which Mr Houston procured for you amount at 2/10 each to 17/. Your brothers account with Plumb, to 6/7. and Sawneys expence 4/2 the whole 1.. 7.. 9, Inclosed you have 15/. the overplus of which you may let Sawney have to satisfy those who may have been at any trouble on my account.

The near approach of examination occasions a surprising application to study on all sides, and I think it very fortunate that I entered College immediately after my arrival, tho' I believe there will not be the least danger of my getting an Irish hint as they call it, yet it will make my future studies somewhat easier, and I have by that means read over more than half Horace and made myself pretty well acquainted with Prosody, both which will be almost neglected the two succeeding years.

The very large packet of Letters for Carolina I am afraid will be incommodious to your brother on so long a journey, to whom I desire my compliments may be presented and conclude with my earnest request for a continuance of both your friendships, and sincere wishes for your recovery, and an agreeable journey to your whole Company.

I am, sir, your obligd friend and Hl Ser.

JAMES MADISON.

P. S. Sawney tells me that your Mother and

Brothers are determined to accompany you to Virginia; my friendship and regard for you entitle them to my esteem, and with the greatest sincerity I wish, after a pleasant journey, they may find Virginia capable of giving them great Happiness.

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TO JAMES MADISON.[1] MAD. MSS.

NASSAU HALL, September 30th 69.

HONR SIR,—I received your letter by Mr. Rossekrans, and wrote an answer; but as it is probable this will arrive sooner which I now write by Doctor Witherspoon, I shall repeat some circumstances to avoid obscurity.

On Wednesday last we had the usual commencement. Eighteen young Gentlemen took their Bachelor's degrees, and a considerable number their Master's Degrees. The degree of Doctor of Law was bestowed on Mr. Dickenson the Farmer and Mr. Galloway,[2] the Speaker of the Pennsylvania Assembly, a distinguishing mark of Honour, as there never was any of that kind done before in America. The Commencement began at 10 O'Clock, when the President walked first into the Church, a board of

[1] Madison's father was, during the earlier part of his son's career, his chief correspondent. He was a planter of substantial estate without being wealthy. Although he is represented as not having received much education the few of his letters which are extant show that he wrote with tolerable correctness. He was County Lieutenant of Orange and wielded an influence in local affairs which was considerable. He inherited Montpelier from his father, Ambrose Madison.

[2] "This gentleman afterwards tarnished all his honors by defection from the American cause."—Rives, i., 18.

Trustees following, and behind them those that were to take their Master's degrees, and last of all, those that were to take their first Degrees ; after a short prayer by the President the Head Oration, which is always given to greatest Scholar by the President & Tutors, was pronounced in Latin by Mr. Samuel Smith,[1] son of a Presbyterian Minister in Pennsylvania. Then followed the other Orations, Disputes, and Dialogues, distributed to each according to his merit, and last of all was pronounced the Valedictory oration by Mr. John Henry son of Gentleman in Maryland. This is given to the greatest Orator. We had a very great assembly of People, a considerable number of whom came from N York those at Philadelphia were most of them detained by Races which were to follow on the next day.

Since Commencement the Trustees have been sitting about Business relative to the College, and have chosen for Tutors for the ensuing year, for the junior class Mr. Houston from N Carolina in the room of Mr. Peream. for the Freshman class, Mr. Reeve a gentleman who has for several years past kept a School at Elizabeth Town, in the room of Mr. Pemberton : The Sophomore Tutor Mr. Thomson still retains his place, remarkable for his skill in the Sophomore Studies, having taken care of that class for several years past. Mr. Halsey was chose Junior Tutor but refused. The Trustees have likewise ap-

[1] Delegate from Maryland to the Continental Congress, 1778–81, and again in 1784–7 ; Senator from Maryland, 1789–97 ; Governor of the State from 1797 to his death, Dec. 16, 1798.

pointed Mr. Caldwell a minister at Elizabeth Town to take a journey through the Southern Provinces as far as Georgia to make collections by which the College Fund may be enabled to increase the Library, provide an apparatus of mathematical and Philosophical Instruments & likewise to support Professors which would be a great addition to the advantages of this College. Doct[r] Witherspoon's business to Virginia is nearly the same as I conjecture and perhaps to form some acquaintance to induce Gentlemen to send their sons to this College.

I am very sorry to hear of the great drought that has prevailed with you, but am in some hopes the latter part of the year may have been more seasonable for you[r] crops. Your caution of frugality on consideration of the dry weather shall be carefully observed; but I am under a necessity of spending much more than I was apprehensive, for the purchasing of every small trifle which I have occasion for consumes a much greater sum than one would suppose from a calculation of the necessary expences.

I feel great satisfaction from the assistance my Uncle has received from the Springs, and I flatter myself from the continuance of my mother's health that Dr. Shore's skill will effectually banish the cause of her late indisposition.

I recollect nothing more at present worth relating, but as often as opportunity and anything worthy your attention shall occur, be assured you shall hear from your affectionate son.

JAMES MADISON.

TO JAMES MADISON. MAD. MSS.

NASSAU HALL, July 23d 1770

HONR SIR,—I receiv'd yours dated June 4th & have applied to Mr Hoops as you directed; he says you must suit yourself in paying him, & if you should let him have a bill of Exchange it must be on your own terms. Forty pounds £40. New Jersey Currency is the Sum I shall have of him before I get home, my frugality has not been able to keep it below that, consistent with my staying here to the best advantage. I shall be glad, if it should be convenient for you, to have my next year's stock prepared for me against I come home, for I shall not be able to stay in Virginia more than 4 weeks at most. Half Jos— pass here to the greatest advantage. I have spoken to several of the present senior class about living with you as Tutor, but they will determine on nothing unless they know what you would allow them, as it would not be proper for them to remain in suspense 'till I should return here; If you should receive this time enough to send me an answer by the middle of September & let me know the most you would be willing to give, I think there would be a greater probability of my engaging one for you. Inclosed are the measure of my Neck & rists. I believe my Mother need not hurry herself much about my shirts before I come for I shall not want more than three or four at most. I should chuse she would not have them ruffled 'till I am present myself. I have not yet procured a horse for my Journey, but think you had better not send me one as I cant wait long

enough to know whether or not you'll have an opportunity without losing my chance most of the horses being commonly engaged by the Students sometime before vacation begins. If I should set off from this place as soon as I expect you may look for me in October perhaps a little before the middle if the weather should be good.

We have no publick news but the base conduct of the Merchants in N. York in breaking through their spirited resolutions not to import, a distinct account of which I suppose will be in the Virginia Gazette before this arrives. Their Letter to the Merchants in Philadelphia requesting their concurrence was lately burnt by the students of this place in the college yard, all of them appearing in their black Gowns & the bell Tolling. The number of Students has increased very much of late, there are about an hundred & fifteen in College & the Grammar School twenty-two commence this Fall all of them in American Cloth.

With my love to all the Family, I am, etc.

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TO JAMES MADISON. MAD. MSS.

PRINCETON October 9th 1771.

HOND SIR,—In obedience to your requests I hereby send you an answer to your's of the 25th of Sept. which I received this morning. My Letter by Dr. Witherspoon who left this place yesterday week contains most of what you desire to be informed. I am exceedingly rejoiced to hear of the happy deliverance of my Mother & would fain hope your rheu-

matic pains will not continue much longer. The Bill of exchange was very acceptable. Though I cannot say I have been as yet very much pressed by my creditors. Since I got the Bill I have been making a calculation of my past & future expences & find it nothing more than a bare competency the reason of which I dare say you will not ascribe to extravagance when you read my letter of last week. If I come home in the Spring the purchase of a horse & travelling expences I am apprehensive will amount to more than I can reserve out of my present stock for those purposes so that it would not be amiss perhaps if you were to send a few Half-Jos: by Dr Witherspoon or Colo Lewis's sons if they return, or some safe hand afterwards as best suits you. I should be glad if your health & other circumstances should enable you to visit D. Witherspoon during his stay in Virginia. I am persuaded you would be much pleased with him & that he would be very glad to see you. If you should not be able to see him nor send to him Colo Lewis or any other Gentleman in Fredericksburgh would advance what money I am to have at the least intimation from you. If you should ever send me any Bills hereafter, it will be best for you to make them payable to Dr Witherspoon, which will give him an opportunity to endorse them & greatly help me in getting them, if it should so happen that you see him, please to mention it to him. I am sorry Mr. Chew's mode of Conveyance will not answer in Virginia. I expect to hear from him in a few days by return of a man belonging to this Town from

New London & shall then acquaint him with it and get it remedied by the methods you propose. Mr. James Martin was here at Commencement and had an opportunity of hearing from his Brothers & friends in Carolina by a young man lately come from thence to this College however I shall follow your directions in writing to him immediately & visiting him as soon as I find it convenient.

You may tell M^rs^ Martin he left his Family at home all well. If you think proper that I should come back to this place after my journey to Virginia in the Spring & spend the Summer here you may send the cloth for my coat which I am extremely pleased with & could have wished it had come time enough to have used this Summer past, if you chuse rather I should remain in Virginia next Summer it will be unnecessary.

I am, etc.

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TO WILLIAM BRADFORD, JR.[1]

(*At the Coffee-House, Philadelphia.—By the Post.*)

ORANGE, VIRGINIA, November 9, 1772.

MY DEAR B.,—You moralize so prettily, that if I were to judge from some parts of your letter of Octo-

[1] From Madison's works. This and the following Bradford letters are not found in the Madison MSS. Bradford was successively Major in the Pennsylvania militia, in command of a company in Col. Hampton's regiment of regular troops, and Deputy Muster Master-General, with rank of Lieutenant-Colonel, during the Revolution ; Attorney-General of Pennsylvania in 1780, Judge of the Supreme Court of the State in 1791, and Attorney-General of the United States in 1794.

ber 13, I should take you for an old philosopher that had experienced the emptiness of earthly happiness; and I am very glad that you have so early seen through the romantic paintings with which the world is sometimes set off by the sprightly imaginations of the ingenious. You have happily supplied, by reading and observation, the want of experiment; and therefore I hope you are sufficiently guarded against the allurements and vanities that beset us on our first entrance on the theatre of life. Yet, however nice and cautious we may be in detecting the follies of mankind, and framing our economy according to the precepts of Wisdom and Religion, I fancy there will commonly remain with us some latent expectation of obtaining more than ordinary happiness and prosperity till we feel the convincing argument of actual disappointment. Though I will not determine whether we shall be much the worse for it if we do not allow it to intercept our views towards a future state, because strong desires and great hopes instigate us to arduous enterprizes, fortitude, and perseverance. Nevertheless, a watchful eye must be kept on ourselves, lest while we are building ideal monuments of renown and bliss here, we neglect to have our names enrolled in the annals of Heaven. These thoughts come into my mind because I am writing to you, and thinking of you. As to myself, I am too dull and infirm now to look out for any extraordinary things in this world, for I think my sensations for many months past have intimated to me not to expect a long or healthy life; though it may be better with me after

some time, [but] I hardly dare expect it, and therefore have little spirit and alacrity to set about anything that is difficult in acquiring and useless in possessing after one has exchanged time for eternity. But you have health, youth, fire, and genius, to bear you along through the high track of public life, and so may be more interested and delighted in improving on hints that respect the temporal though momentous concerns of man.

I think you made a judicious choice of History and the science of morals for your winter's study. They seem to be of the most universal benefit to men of sense and taste in every post, and must certainly be of great use to youth in settling the principles and refining the judgment, as well as in enlarging knowledge and correcting the imagination. I doubt not but you design to season them with a little divinity now and then, which, like the philosopher's stone, in the hands of a good man, will turn them and every lawful acquirement into the nature of itself, and make them more precious than fine gold.

As you seem to require that I should be open and unreserved, (which is indeed the only proof of true friendship,) I will venture to give you a word of advice, though it be more to convince you of my affection for you than from any apprehension of your needing it. Pray do not suffer those impertinent fops that abound in every city to divert you from your business and philosophical amusements. You may please them more by admitting them to the enjoyment of your company, but you will make them

respect and admire you more by showing your indignation at their follies, and by keeping them at a becoming distance. I am luckily out of the way of such troubles, but I know you are surrounded with them; for they breed in towns and populous places as naturally as flies do in the shambles, because there they get food enough for their vanity and impertinence.

I have undertaken to instruct my brothers and sisters in some of the first rudiments of literature; but it does not take up so much of my time but I shall always have leisure to receive and answer your letters, which are very grateful to me, I assure you; and for reading any performances you may be kind enough to send me, whether of Mr. Freneau[1] or anybody else. I think myself happy in your correspondence, and desire you will continue to write as often as you can, as you see I intend to do by the early and long answer I send you. You are the only valuable friend I have settled in so public a place, and I must rely on you for an account of all literary transactions in your part of the world.

I am not sorry to hear of Livingston's[2] getting a

[1] Nov. 22, 1772, Philip Freneau wrote to Madison from Somerset Co., Md., where he was, as he expressed it, teaching school, sleeping, and writing poetry: "I should have been glad to have heard from you before now; while I was at College I had but a short participation of your agreeable friendship, and the few persons I converse with and yet fewer, whose conversation I delight in, makes me regret the Loss of it."—*Mad. MSS.* It was chiefly through Madison's agency that Freneau was subsequently appointed translating clerk of the State Department, a position which he held while he was editing the *National Gazette* and leading the abuse of Washington. See Ædanus Burke's letter to Madison concerning him in *The American Historical Review* for January, 1898, p. 279.

[2] Brokholst Livingston, afterwards Judge of the Supreme Court of the United States.

degree. I heartily wish him well, though many would think I had but little reason to do so; and if he would be sensible of his opportunities and encouragements, I think he might still recover. Lucky (?) and his company, after their feeble yet wicked assault upon Mr. Erwin, in my opinion, will disgrace the catalogue of names; but they are below contempt, and I spend no more words about them.

And now, my friend, I must take my leave of you, but with such hopes that it will not be long before I receive another epistle from you, as make me more cheerfully conclude and subscribe myself

Your sincere and affectionate friend.

Your direction was right; however, the addition of "Jr." to my name would not be improper.

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1772. ACT FOR OPENING & KEEPING IN REPAIR PUBLIC ROADS.[1] MAD. MSS.

Freeholders of each Township to chuse annually two supervisors of the High ways.

The supervisors to lay a rate (appeal to lie to Quarter Sessions for party grieved) not exceeding 9$^{d}$ in the pound on real & personal estate & to last county assessm$^{t}$ to be employed in opening,

[1] This act repeals an act requiring the personal labor of the inhabitants for repairing roads. [Note in MS.]

This draft never reached a maturer stage. The "Act for the more effectually keeping the publick roads and bridges in repair" (November, 1762, *3$^{d}$ George III.*) put the building and repair of roads in the hands of surveyors of public roads, or, where the building was let out, required bonds from the constructors. The act was to run for three years and was renewed, November, 1766 (*7$^{th}$ George III.*), for five years. Having run out it was revived, February, 1772 (*12$^{th}$ George III.*), and renewed for two years.—Hening's *Statutes at Large*, vii, 577; viii, 192, 542.

clearing, mending & repairing the several high ways within their respective Townships.

Where roads divide 2 townships, to be repaired at joint expense, and supervisors

Vacancy in supervisorship by death refusal to act or removal to be supplied by 3 or more Justices of peace.

Supervisors to receive 12$^{d.}$ in the pound for collecting, & 4 shill$^{gs}$ per day during the overseeing employ$^{g}$ & directing the workmen on the public roads.

Tenants of non resident Landlords liable for rates to be deducted from their rents, saving contracts.

Supervisors req$^{d.}$ as often as roads out of repair or new roads to be opened, to have sufficient n° of labourers to work upon, open, amend, clear & repair the same in the most effectual manner, & to purchase wood, & other materials necessary. Supervisors & persons hav$^{g}$ his order, empowered to enter on adjoining lands, to cut ditches & drains as he shall find necessary, doing as little damage as possible, which drains shall not be stopped by owner under penalty of 5 p$^{ds}$ for each offence—also to dig gravel sand or stones, or take loose stones on s$^{d}$ land or cut trees necessary, doing as little damage as possible, & the s$^{d.}$ materials to remove without let, paying or tendency to owner the agreed value, or in case cannot agree, value to be set by two indifferent freeholders.

Penalty of 3/. on persons working on high way, asking demand$^{g}$ or extorting money or other thing from travellers, to be recovered by supervisor before the Justice of peace & applied to use of roads, & in case of Supervisors conivance, he to forfeit 20/. to by any person whatever ½ to prosecutor, ½ to use of roads.

Supervisors neglecting or refusing to perform duty, to be fined £3 for every offence, to be recovered in same way before Justice of peace & applied to use of roads allowing appeal to Supervisor to Court of Quarter Sessions which on petition of party grieved shall take final order therein as shall appear Just & reasonable. Electors at time of chusing supervisors to chuse four freeholders yearly, to settle acc$^{t}$ of supervisors whose office shall then be about to expire: & the person or persons who shall have served the office of supervisor for preceding year, shall on 25$^{th.}$ March yearly

or 6 days after make up & produce fair acc$^{ts}$ of all sums expended, & come to his hands : w$^{ch}$ acc$^{ts}$ shall be entered in a book to be kept for that purpose, & shall be attested on oath or affirmation before Justice of peace if req$^{d}$ by s$^{d}$ freeholder or 3 of them—s$^{d}$ freeholders or 3 of them to allow such charges & sums only as they shall deem reasonable ; money remaining in hands of precedg. supervisors to be paid by order of s$^{d}$ freeholders to succeeding supervisors : in case of the reverse, succeeding supervisors to reimburse by like order, out of the first money coming to their hands—supervisors fail$^{g}$ to produce acc$^{t}$ or to pay surplusage or deliver book of acc$^{t}$ to successor or in his hands may on complaint by s$^{d}$ freeholders to any Justice of peace, be by him committed to county goal, till he comply.

Person sued for executing this ac$^{t}$ may plead gen$^{l}$ issue, & give it & special matter in evidence ; & if dft or prosecutor be nonsuit, or suffer a discontinuance or if a verd$^{t}$ pass ag$^{st}$ him, dfts shall have treble costs to be recovered as in other cases of costs given to dfts. & no such suit or prosecution tained unless comenced within six months after cause given, or unless security be first for the charges.

## TO WILLIAM BRADFORD, JR.

ORANGE COUNTY, VIRGINIA, April 28, 1773.

DEAR B.,—I received your letter dated March the 1st about a week ago ; and it is not more to obey your demands than to fulfil my own desires that I give you this early answer. I am glad you disclaim all punctiliousness in our correspondence. For my own part I confess I have not the face to perform ceremony in person, and I equally detest it on paper ; though as Tully says, It cannot blush. Friendship, like all truth, delights in plainness and simplicity, and it is the counterfeit alone that needs ornament and

ostentation. I am so thoroughly persuaded of this, that when I observe any one over complaisant to me in his professions and promises, I am tempted to interpret his language thus: "As I have no real esteem for you, and for certain reasons think it expedient to appear well in your eye, I endeavor to varnish falsehood with politeness, which I think I can do in so ingenious a manner that so vain a blockhead as you cannot see through it."

I would have you write to me when you feel as you used to do, when we were under the same roof, and you found it a recreation and release from business and books to come and chat an hour or two with me. The case is such with me that I am too remote from the post to have the same choice, but it seldom happens that an opportunity catches me out of a humor of writing to my old Nassovian friends, and you know what place you hold among them.

I have not seen a single piece against the Doctor's address. I saw a piece advertised for publication in the Philadelphia Gazette, entitled "Candid remarks," &c., and that is all I know about it. These things seldom reach Virginia, and when they do, I am out of the way of them. I have a curiosity to read those authors who write with "all the rage of impotence," not because there is any excellence or wit in their writings, but because they implicitly proclaim the merit of those they are railing against, and give them an occasion of shewing by their silence and contempt that they are invulnerable. I am heartily obliged to you for your kind offer of sending me some of these performances. I should also willingly accept Freneau's

works, and the "Sermons to Doctors in Divinity," which I hear are published, and whatever else you reckon worth reading. Please to note the cost of the articles, for I will by no means suffer our acquaintance to be an expense on your part alone, and I have nothing fit to send you to make it reciprocal. In your next letter be more particular as to yourself, your intentions, present employments, &c., Erwin, McPherson, &c., the affairs of the college. Is the lottery like to come to anything? There has happened no change in my purposes since you heard from me last. My health is a little better, owing, I believe, to more activity and less study, recommended by physicians. I shall try, if possible, to devise some business that will afford me a sight of you once more in Philadelphia within a year or two. I wish you would resolve the same with respect to me in Virginia, though within a shorter time. I am sorry my situation affords me nothing new, curious, or entertaining, to pay you for your agreeable information and remarks. You, being at the fountain head of political and literary intelligence, and I in an obscure corner, you must expect to be greatly loser on that score by our correspondence. But as you have entered upon it, I am determined to hold you to it, and shall give you some very severe admonitions whenever I perceive a remissness or brevity in your letters. I do not intend this as a beginning of reproof, but as a caution to you never to make it necessary at all.

If Mr. Horton is in Philadelphia, give him my best thanks for his kindness in assisting Mr. Wallace to do some business for [. . . . . ?] not long ago.

I must re-echo your pressing invitation to [. . . . . ?] do with the more confidence as I have complied.

I am, dear sir, your, most unfeignedly.

TO WILLIAM BRADFORD, JR.

January the 24th, 1774.

MY WORTHY FRIEND,—Yours of the 25th of last month came into my hands a few days past. It gave singular pleasure, not only because of the kindness expressed in it, but because I had reason to apprehend the letter you received last from me had miscarried, and I should fail in procuring the intelligence I wanted before the trip I designed in the spring.

I congratulate you on your heroic proceedings in Philadelphia with regard to the tea.[1] I wish Boston may conduct matters with as much discretion as they seem to do with boldness. They seem to have great trials and difficulties by reason of the obduracy and ministerialism of their Governor. However, political contests are necessary sometimes, as well as military, to afford exercise and practice, and to instruct in the art of defending liberty and property. I verily be-

[1] "Even at Philadelphia, which had been so long celebrated, for the excellency of its police and government, and the temperate manners of its inhabitants, printed papers were dispersed, warning the pilots on the river Delaware, not to conduct any of these tea ships into their harbour, which were only sent out for the purpose of enslaving and poisoning all the Americans; at the same time, giving them plainly to understand it was expected, that they would apply their knowledge of the river, under the colour of their profession, in such a manner, as would effectually secure their country from so imminent a danger." —*Annual Register*, xvii., 49.

lieve the frequent assaults that have been made on America (Boston especially) will in the end prove of real advantage.

If the Church of England had been the established and general religion in all the northern colonies as it has been among us here, and uninterrupted tranquillity had prevailed throughout the continent, it is clear to me that slavery and subjection might and would have been gradually insinuated among us. Union of religious sentiments begets a surprising confidence, and ecclesiastical establishments tend to great ignorance and corruption; all of which facilitate the execution of mischievous projects.

But away with politics! Let me address you as a student and philosopher, and not as a patriot, now. I am pleased that you are going to converse with the Edwards and Henrys and Charleses, &c., &c., who have swayed the British sceptre, though I believe you will find some of them dirty and unprofitable companions, unless you will glean instruction from their follies, and fall more in love with liberty by beholding such detestable pictures of tyranny and cruelty.

I was afraid you would not easily have loosened your affection from the belles lettres. A delicate taste and warm imagination like yours must find it hard to give up such refined and exquisite enjoyments for the coarse and dry study of the law. It is like leaving a pleasant flourishing field for a barren desert; perhaps I should not say barren either, because the law does bear fruit, but it is sour fruit, that must be gathered and pressed and distilled before it can bring

pleasure or profit. I perceive I have made a very awkward comparison; but I got the thought by the end, and had gone too far to quit it before I perceived that it was too much entangled in my brain to run it through; and so you must forgive it. I myself used to have too great a hankering after those amusing studies. Poetry, wit, and criticism, romances, plays, &c., captivated me much; but I began to discover that they deserve but a small portion of a mortal's time, and that something more substantial, more durable, and more profitable, befits a riper age. It would be exceedingly improper for a laboring man to have nothing but flowers in his garden, or to determine to eat nothing but sweet meats and confections. Equally absurd would it be for a scholar and a man of business to make up his whole library with books of fancy, and feed his mind with nothing but such luscious performances.

When you have an opportunity and write to Mr. Brackenridge,[1] pray tell him I often think of him, and long to see him, and am resolved to do so in the spring. George Luckey was with me at Christmas, and we talked so much about old affairs and old friends, that I have a most insatiable desire to see you all. Luckey will accompany me, and we are to set off on the 10th of April, if no disaster befalls either of us.

I want again to breathe your free air. I expect it will mend my constitution and confirm my principles.

[1] Hugh Henry Brackenridge, a classmate of Madison's. In conjunction with Philip Franeau he wrote a poetical dialogue, called "The Rising Glory of America," which was read at the graduating exercises at Princeton and printed in 1772.

I have indeed as good an atmosphere at home as the climate will allow; but have nothing to brag of as to the state and liberty of my country. Poverty and luxury prevail among all sorts; pride, ignorance, and knavery among the priesthood, and vice and wickedness among the laity. This is bad enough, but it is not the worst I have to tell you. That diabolical, hell-conceived principle of persecution rages among some; and to their eternal infamy, the clergy can furnish their quota of imps for such business. This vexes me the worst of anything whatever. There are at this time in the adjacent country not less than five or six well-meaning men in close jail for publishing their religious sentiments, which in the main are very orthodox. I have neither patience to hear, talk, or think of anything relative to this matter; for I have squabbled and scolded, abused and ridiculed, so long about it to little purpose, that I am without common patience. So I must beg you to pity me, and pray for liberty of conscience to all.

I expect to hear from you once more before I see you, if time will admit; and want to know when the synod meets, and where; what the exchange is at, and as much about my friends and other matters as you can [tell,] and think worthy of notice Till I see you,

Adieu!

N. B. Our correspondence is too far advanced to require apology for bad writing and blots.

Your letter to Mr. Wallace is yet in my hands, and shall be forwarded to you as soon as possible. I hear nothing from him by letter or fame.

TO WILLIAM BRADFORD, JR.

VIRGINIA, ORANGE COUNTY, APRIL 1, 1774.

MY WORTHY FRIEND,—I have another favor to acknowledge in the receipt of your kind letter of March the 4th. I did not intend to have written again to you before I obtained a nearer communication with you; but you have too much interest in my inclinations ever to be denied a request.

Mr. Brackenridge's illness gives me great uneasiness; I think he would be a loss to America. His merit is rated so high by me that I confess, if he were gone, I could almost say with the poet, that his country could furnish such a pomp for death no more. But I solace myself from Finley's ludicrous descriptions as you do.

Our Assembly is to meet the first of May, when it is expected something will be done in behalf of the dissenters. Petitions, I hear, are already forming among the persecuted Baptists, and I fancy it is in the thoughts of the Presbyterians also, to intercede for greater liberty in matters of religion. For my own part, I cannot help being very doubtful of their succeeding in the attempt. The affair was on the carpet during the last session; but such incredible and extravagant stories were told in the House of the monstrous effects of the enthusiasm prevalent among the sectaries, and so greedily swallowed by their enemies, that I believe they lost footing by it. And the bad name they still have with those who pretend too much contempt to examine into their principles and conduct, and are too much devoted to the ecclesiastical establishment to hear of the toleration of dissentients, I am

apprehensive, will be again made a pretext for rejecting their request.

The sentiments of our people of fortune and fashion on this subject are vastly different from what you have been used to.[1] That liberal, catholic, and equitable way of thinking, as to the rights of conscience, which is one of the characteristics of a free people, and so strongly marks the people of your province, is but little known among the zealous adherents to our hierarchy. We have, it is true, some persons in the Legislature of generous principles both in Religion and Politics; but number, not merit, you know, is necessary to carry points there. Besides, the clergy are a numerous and powerful body, have great influence at home by reason of their connection with and dependence on the Bishops and Crown, and will naturally employ all their art and interest to depress their rising adversaries; for such they must consider dissenters who rob them of the good will of the people, and may, in time, endanger their livings and security.

You are happy in dwelling in a land where those inestimable privileges are fully enjoyed; and the public has long felt the good effects of this religious as well as civil liberty. Foreigners have been encouraged to settle among you. Industry and virtue have been promoted by mutual emulation and mutual inspection; commerce and the arts have flourished;

[1] Tucker, in his life of Jefferson, states it as Madison's opinion, "That the proportion of dissenters in Virginia, at the breaking out of the Revolution, was considerably less than one half of those who professed themselves members of any church." Rives, i., 55, *n.*

and I cannot help attributing those continual exertions of genius which appear among you to the inspiration of liberty, and that love of fame and knowledge which always accompany it. Religious bondage shackles and debilitates the mind, and unfits it for every noble enterprise, every expanded prospect. How far this is the case with Virginia will more clearly appear when the ensuing trial is made.

I am making all haste in preparing for my journey. It appears as if it would be the first of May before I can start, which I can more patiently bear, because I may possibly get no company before that time; and it will answer so exactly with the meeting of the synod. George Luckey talks of joining me if I can wait till then. I am resolutely determined to come if it is in my power. If anything hinders me, it will be most likely the indisposition of my mother, who is in a very low state of health; and if she should grow worse, I am afraid she will be more unwilling to part with my brother, as she will be less able to bear the separation. If it should unfortunately happen that I should be forced off or give out coming, Luckey on his return to Virginia will bring me whatever publications you think worth sending, and among others [Caspapini's ?] letters.

But whether I come or not, be assured I retain the most ardent affection and esteem for you, and the most cordial gratitude for your many generous kindnesses. It gives me real pleasure when I write to you that I can talk in this language without the least affectation, and without the suspicion of it, and that if I should omit expressing my love for you, your

friendship can supply the omission; or if I make use of the most extravagant expressions of it, your corresponding affection can believe them to be sincere. This is a satisfaction and delight unknown to all who correspond for business and conveniency, but richly enjoyed by all who make pleasure and improvement the business of their communications.

Farewell,

J. M.

P. S. You need no longer direct to the care of Mr. Maury.

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TO WILLIAM BRADFORD, JR.

July 1, 1774.

DEAR SIR,—I am once more got into my native land, and into the possession of my customary employments, solitude and contemplation; though I must confess not a little disturbed by the sound of war, blood and plunder, on the one hand, and the threats of slavery and oppression on the other. From the best accounts I can obtain from our frontiers, the savages are determined on the extirpation of the inhabitants, and no longer leave them the alternative of death or captivity. The consternation and timidity of the white people, who abandon their possessions without making the least resistance, are as difficult to be accounted for as they are encouraging to the enemy. Whether it be owing to the unusual cruelty of the Indians, the want of necessary implements or ammunition for war, or to the ignorance and inexperi-

ence of many who, since the establishment of peace, have ventured into those new settlements, I can neither learn, nor with any certainty conjecture. However, it is confidently asserted that there is not an inhabitant for some hundreds of miles back which have been settled for many years except those who are [forted?] in or embodied by their military commanders. The state of things has induced Lord Dunmore, contrary to his intentions at the dissolution of the Assembly, to issue writs for a new election of members, whom he is to call together on the 11th of August.

As to the sentiments of the people of this Colony with respect to the Bostonians, I can assure you I find them very warm in their favor. The natives are very numerous and resolute, are making resolves in almost every county, and I believe are willing to fall in with the other Colonies in any expedient measure, even if that should be the universal prohibition of trade. It must not be denied, though, that the Europeans, especially the Scotch, and some interested merchants among the natives, discountenance such proceedings as far as they dare; alledging the injustice and perfidy of refusing to pay our debts to our generous creditors at home. This consideration induces some honest, moderate folks to prefer a partial prohibition, extending only to the importation of goods.

We have a report here that Governor Gage has sent Lord Dunmore some letters relating to public matters in which he says he has strong hopes that he shall be able to bring things at Boston to an amicable settlement. I suppose you know whether there be

any truth in the report, or any just foundation for such an opinion in Gage.

It has been said here by some, that the appointed fast was disregarded by every *Scotch* clergyman, though it was observed by most of the others who had timely notice of it. I cannot avouch it for an absolute certainty, but it appears no ways incredible.

I was so lucky as to find Dean Tucker's tracts[1] on my return home, sent by mistake with some other books imported this spring. I have read them with peculiar satisfaction and illumination with respect to the interests of America and Britain. At the same time his ingenious and plausible defence of parliamentary authority carries in it such defects and misrepresentations, as confirm me in political orthodoxy —after the same manner as the specious arguments of Infidels have established the faith of inquiring Christians.

I am impatient to hear from you; and do now certainly [earnestly?] renew the stipulation for that friendly correspondence which alone can comfort me in the privation of your company. I shall be punctual in transmitting you an account of everything that can be acceptable, but must freely absolve you from as strict an obligation, which your application to more important business will not allow, and which my regard for your ease and interests will not suffer me to enjoin. I am, dear sir, your faithful friend.

[1] On the dispute between England and America, recommending as a practical solution, a voluntary separation. Rives, i., 35.

TO WILLIAM BRADFORD, JR.

VIRGINIA, ORANGE COUNTY, January 20, 1775.[1]

MY WORTHY FRIEND,— * * *

We are very busy at present in raising men and procuring the necessaries for defending ourselves and our friends in case of a sudden invasion. The extensiveness of the demands of the Congress, and the pride of the British nation, together with the wickedness of the present ministry, seem, in the judgment of our politicians, to require a preparation for extreme events. There will, by the Spring I expect, be some thousands of well-trained, high-spirited men ready to meet danger whenever it appears, who are influenced by no mercenary principles, but bearing their own expenses, and having the prospect of no recompense but the honor and safety of their country.

I suppose the inhabitants of your Province are more reserved in their behavior, if not more easy in their apprehension, from the prevalence of Quaker principles and politics. The Quakers are the only people with us who refuse to accede to the Continental association. I cannot forbear suspecting them to be under the control and direction of the leaders of the party in your quarter; for I take those of them that we have to be too honest and simple to have any sinister or secret views, and I do not observe anything in the association inconsistent with their religious principles. When I say they refuse to accede to the

[1] The first portion of this letter is devoted to a discussion of his friend Brackenridge's poem, of which he disapproves. "In short, the theme is not interesting enough, nor the dress sufficiently *à la mode* to attract the notice of the generality."

association, my meaning is that they refuse to sign it; that being the method used among us to distinguish friends from foes, and to oblige the common people to a more strict observance of it. I have never heard whether the like method has been adopted in the other Governments.

I have not seen the following in print, and it seems to be so just a specimen of Indian eloquence and mistaken valor, that I think you will be pleased with it. You must make allowance for the unskilfulness of the interpreters.

The speech of Logan, a Shawanese Chief, to Lord Dunmore:

"I appeal to any white man to say, if ever he entered Logan's cabin hungry, and I gave him not meat; if ever he came cold or naked, and I gave him not clothing. During the course of the last long and bloody war, Logan remained idle in his tent, an advocate for peace; nay, such was my love for the whites, that those of my country pointed at me as they passed by, and said 'Logan is the friend of white men.' I had even thought to live with you but for the injuries of one man. Col. Cressop, the last spring, in cold blood and unprovoked, cut off all the relations of Logan, not sparing even my women and children. There runs not a drop of my blood in the veins of any human creature. This called on me for revenge. I have sought it; I have killed many; I have fully glutted my vengence. For my country I rejoice at the beams of peace; but do not harbor a thought that mine is the joy of fear. Logan never felt fear. He

will not turn on his heel to save his life. Who is there to mourn for Logan ?—not one ! "

If you should see any of our friends from Princeton a little before the time of your intending to write to me, and could transmit any little intelligence concerning the health, &c., of my little brother there, it would be very acceptable to me, and very gratifying to a fond mother ; but I desire it may only be done when it will cost you less than five words.

We had with us a little before Christmas the Rev. Moses Allen, on his return from Boston to Charlestown. He told me he came through Philadelphia, but did not see you, though he expresses a singular regard for you, and left his request with me that you would let him hear from you whenever it is convenient, promising to return the kindness with punctuality. He travelled with considerable equipage for a dissenting ecclesiastic, and seems to be willing to superadd the airs of the fine gentleman to the graces of the spirit. I had his company for several days, during which time he preached two sermons with general approbation. His discourses were above the common run some degree ; and his appearance in the pulpit on on the whole was no discredit to [. . . . . ?] He retains too much of his pristine levity, but promises amendment. I wish he may for the sake of himself, his friends, and his flock. I only add that he seems to be one of those geniuses that are formed for shifting in the world rather than shining in a college, and that I really believe him to possess a friendly and generous disposition.

You shall ere long hear from me again. Till then, *Vive, vale et Lœtare.*

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ADDRESS "TO CAPTAIN PATRICK HENRY AND THE GENTLEMEN INDEPENDENTS OF HANOVER.[1]

May 9, 1775.

"GENTLEMEN: We, the committee for the county of Orange, having been fully informed of your seasonable and spirited proceedings in procuring a compensation for the powder fraudulently taken from the country magazine by command of Lord Dunmore, and which it evidently appears his lordship, notwithstanding his assurances, had no intention to restore, entreat you to accept their cordial thanks for this testimony of your zeal for the honor and interest of your country, We take this opportunity also to give it as our opinion that the blow struck in the Massachusetts government is a hostile attack on this and ever other Colony, and a sufficient warrant to use violence and reprisal in all cases in which it may be for our security and welfare.

"JAMES MADISON, Chairman.

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| JAMES TAYLOR, | THOMAS BARBOUR, |
| ZACHARIAH BURNLEY, | ROWLAND THOMAS, |
| JAMES MADISON, JR., | WILLIAM MOORE, |
| JAMES WALKER, | LAWRENCE TALIAFERRO, |
| HENRY SCOTT, | THOMAS BELL." |

[1] From Rives's *Life of Madison.* Madison was without doubt, Rives says, the author of the address.—Rives, i., 94, 95.

## INDEPENDENCE AND CONSTITUTION OF VIRGINIA.[1]

MAD. MSS.

JOURNAL OF THE VIRGINIA CONVENTION IN 1776.

May 10. A representation * from the Committee of the County of Augusta was presented to the Convention, setting forth the present unhappy situation of the country; and from the ministerial measures of vengeance now pursuing, representing the necessity of making the confederacy of the United Colonies the most perfect, independent, and lasting, and of framing an equal, free, and liberal Government that may bear the test of all future ages: ordered that the said representation be referred to the committee on the State of the Colony. [quere, as to the *date* of this representation, and whether the document be on the public files.]

* Quere—its date.

May. 15. The Convention, one hundred and twelve members being present, unanimously agreed as follows "Forasmuch as all endeavours of the United Colonies, by the most decent representations and petitions to the king and parliament of Great Britain, to restore peace and security to America under the British Government, and a reunion with that people upon just and liberal terms, instead of a redress of grievances, have produced—from an

[1] The whole of this paper was transcribed by Madison after his retirement to private life. An exhaustive establishment of George Mason's authorship of the Declaration of Rights as a whole may be found in Kate Mason Rowland's *Life of George Mason*. The authorship of the clause concerning religious liberty, which, as the draft shows, was originated by Madison, is in dispute. Edmund Randolph attributed it to Patrick Henry, but Miss Rowland insists that Mason wrote it. See *Life of George Mason*, i., 241 *et seq.*; also Conway's *Edmund Randolph*, 158. Madison introduced his amendment in the convention itself, but if he spoke upon it, which is improbable, as he was then mastered by his modesty and youth, there is no record of it. The Plan of Government, from which the Constitution was evolved, was, according to unsupported tradition, written by Meriwether Smith (see Madison's letter to Mason's grandson, 29 December, 1827). In the construction of the Constitution itself Mason's was the master hand, and it is highly probable that he also wrote the Plan. See Miss Rowland's *Life of George Mason*; also for an earlier impression of Madison, Madison to Washington, Oct. 18, 1787, where he incidentally speaks of the Constitution as having been drawn by Mason; and his letter to Judge Woodward, Sept. 11, 1824; also Rives, i., 163 n.

imperious and vindictive administration increased insult, oppression, and a vigorous attempt to effect our total destruction : By a late act, all these colonies are declared to be in rebellion, and out of the protection of the British crown, our properties subjected to confiscation, our people when captivated, compelled to join in the murder and plunder of their relations and countrymen, and all former rapine and oppression of Americans delared legal and just. Fleets and armies are raised, and the aid of foreign troops engaged to assist these destructive purposes. The king's representative in this colony hath not only witheld all the powers of Government from operating for our safety, but having retired on board an armed ship, is carrying on a piratical and savage war against us, tempting our slaves, by every artifice, to resort to him, and training and employing them against their masters. In this state of extreme danger we have no alternative left, but an abject submission to the will of those overbearing tyrants, or a total separation from the crown and Government of Great Britain, uniting and exerting the strength of all America for defence, and forming alliances with foreign powers for commerce and aid in war : wherefore, appealing to the SEARCHER OF HEARTS, for the sincerity of former declarations expressing our desire to preserve the connexion with that nation, and that we are driven from that inclination by their wicked councils, and the eternal laws of self-preservation ;

*Resolved unanimously*, That the delegates appointed to represent this colony in General congress, be instructed to propose to that respectable body, to declare the United Colonies, free and independent States, absolved from all allegiance to, or dependence upon, the crown or Parliament of Great Britain ; and that they give the assent of this Colony to such declaration, and to whatever measures may be thought proper and necessary by the congress for forming foreign alliances, and a confederation of the colonies, at such times, and in the manner, as to them shall seem best : Provided, that the power of forming Government for, and the regulations of the internal concerns of each colony, be left to the respective colonial legislatures.

*Resolved unanimously*, that a committee be appointed to prepare a DECLARATION OF RIGHTS, and such a plan of Government

as will be most likely to maintain peace and order in this colony, and secure substantial and equal liberty to the people.

And a committee was appointed of the following members: viz Archibald Cary, Meriwether Smith, M^r^ Mercer, M^r^ Henry Lee, M^r^ Treasurer—[Robert Carter Nicholas] M^r^ Henry, M^r^ Dandridge, M^r^ Edmund Randolph, M^r^ Gilmer, M^r^ Bland, M^r^ Diggs, M^r^ Carrington, M^r^ Thomas Ludwell Lee, M^r^ Cabell, M^r^ Jones, M^r^ Blair, M^r^ Fleming, M^r^ Tazewell, M^r^ Richard Cary, M^r^ Bullitt, M^r^ Watts, M^r^ Banister, M^r^ Page, M^r^ Starke, M^r^ David Mason, M^r^ Adams, M^r^ Read, and M^r^ Thomas Lewis.

May 16. Ordered that M^r^ Madison, M^r^ Rutherford and M^r^ Watkins be added to the Committee appointed to prepare a Declaration of Rights and a plan of Government.

May. 18. Ordered that George Mason be added to that Committee.

[It is inferred that he was not before present; especially as his name is not on any one of the numerous committees of antecedent appointment. His distinguished talents, if present, could not have been overlooked.]

May 21. Ordered that M^r^ Bowyer be added to the committee appointed to prepare a Declaration of Rights and plan of Government.

May 27. Mr. Cary reported a *Declaration of Rights*, which was ordered to be printed for the perusal of the members. [See a printed copy in the hands of J. M.]

Ordered: that M^r^ Curle and M^r^ Holt be added to the committee appointed to prepare a Declaration of Rights and plan of Government.

June 10. The Declaration of Rights, reported from a committee of the whole, with several amendments.

June 11. The Amendments to the Declaration of Rights agreed to, and the whole ordered to be transcribed for a third reading.

June 12. The Amended Declaration of Rights agreed to nem: con. [See the copy below.]

June 24. M^r^ Cary reported from the appointed committee "a plan of Government for this Colony," which was ordered to be read a second time.

June 26. In committee of the whole on the reported plan of Gov^t progress made and reported.

June 27. In committee of the whole on the Plan, & progress reported.

June 28. The plan reported from the Committee of the whole, with amendments, & ordered to be transcribed & read a third time.

June 29. Resolved unanimously that the said plan do pass.

(As printed by order of the convention)

The following declaration * was reported to the convention by the committee appointed to prepare the same, and referred to the consideration of a committee of the whole convention; and in the meantime, is ordered to be printed for the perusal of the members.

A DECLARATION OF RIGHTS made by the Representatives of the good people of VIRGINIA, assembled in full and free Convention; which rights do pertain to us, and our posterity, as the basis and foundation of Government.

1. That all men are born equally free and independent, and have certain inherent natural rights, of which they cannot, by any compact, deprive their posterity; among which are the enjoyment of life and liberty, with the means of acquiring and possessing prop-

* It was drafted by George Mason.

As agreed to by the Convention.

A DECLARATION OF RIGHTS, made by the representatives of the good people of VIRGINIA, assembled in full and free convention; which rights do pertain to them, and their posterity, as the basis and foundation of Government.

1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they can not by any compact, deprive or divest their posterity: namely, the enjoyment of life and liberty, with the means of acquir-

erty, and pursuing and obtaining happiness and safety.

2. That all power is vested in, and consequently derived from the people; that magistrates are their trustees and servants, and at all times amenable to them.

3. That Government is, or ought to be, instituted for the common benefit, protection, and security, of the people, nation or community: of all the various modes and forms of Government that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

4. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of publick services; which not being descendible or hereditary, the idea

ing & possessing property, and preserving and obtaining happiness and safety.

2. The same.

3. The same.

4. That no man or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices

of a man born a magistrate, a legislator, or a judge, is unnatural and absurd.

5. That the legislative and executive powers of the state should be separate and distinct from the judicative; and that the members of the two first, may be restrained from oppression, by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain and regular elections.

6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent c o m m o n interest with and attachment to, the community, have the right of suffrage.

of magistrate, legislator or judge to be hereditary.

5. That the Legislative and executive powers of the State should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burdens of the people, they should at fixed periods be reduced to a private station, return into that body from which they w e r e originally taken, and the vacancies be supplied by frequent, certain and regular elections, in which all or any part of the former members, to be again eligible or ineligible as the laws shall direct.

6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men having sufficient evidence of permanent c o m m o n interest with, and attachment to, the community have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not in like manner assented for the public good.

7 That no part of a man's property can be taken from him, or applied to publick uses, without his own consent, or that of his legal representatives; nor are the people bound by any laws but such as they have, in like manner, assented to, for their common good.

8. That all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

9. That laws having retrospect to crimes, and punishing offences, committed before the existence of such laws, are generally oppressive, and ought to be avoided.

10. That in all capital or criminal prosecutions, as man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers or witnesses, to call for evidence in his favour, and to a speedy trial by an impartial jury of his vicinage; without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land, or the judgment of his peers.

7. That all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

8. That in all capital or criminal prosecutions, as man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favour, and to a speedy trial by an impartial jury of the vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself, that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

11. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

12. That warrants unsupported by evidence, whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are grievous and oppressive, and ought not to be granted.

13. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

14. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotick governments.

15. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free state; that standing armies in time of peace, should be avoided as dangerous to liberty; and that in all cases, the military should be under strict subordination to, and governed by the civil power.

16. That the people have a

9. The same as N° 11.

10. That general warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence are greivous and oppresive and ought not to be granted.

11. The same as N° 13.

12. The same as N° 14.

13. The same as N° 15.

14. That the people have a

right to uniform Government; and therefore, that no Government separate from, or independent of the Government of Virginia, ought of right, to be erected or established, within the limits thereof.

17. That no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

18. That Religion, or the duty which we owe to our CREATOR, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence: and therefore, that all men should enjoy the fullest toleration in the exercise of religion, according to the dictates of conscience, unpunished, and unrestrained by the magistrate, unless under colour of religion, any man disturb the peace, the happiness, or safety of Society. And that it is the mutual duty of all to practice Christian forbearance, love, and charity, towards each other.*

* On the printed paper here literally copied, is a manuscript variation of this last article making it read "That Religion or the duty we owe our Creator,

right to uniform Government: and therefore that no government separate from or independent of the Government of Virginia, ought to be erected or established within the limits thereof.

15. The same as Nº 17.

16. That Religion, or the duty we owe to our CREATOR, and the manner of discharging it can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice christian forbearance love and charity towards each other.

(Copy of a printed paper, in the hands of J. M.)

## A PLAN OF GOVERNMENT

Laid before the Committee of the House, which they have ordered to be printed for the perusal of the members.*

Copy of the Constitution as finally agreed to by the convention of 1776.

and the manner of discharging it, being under the direction of reason and conviction only, not of violence or compulsion, all men are equally entitled to the full and free exercise of it, according to the dictates of conscience; and therefore that no man or class of men, ought, on account of religion to be invested with peculiar emoluments or privileges, nor subjected to any penalties or disabilties, unless under colour of religion, the preservation of equal liberty and the existence of the State be manifestly endangered."

This variation is in the handwriting of J. M. and is recollected to have been brought forward by him with a view, more particularly to substitute for the idea expressed by the term "toleration," an absolute and equal right in all to the exercise of religion according to the dictates of conscience. The proposal was moulded into the last article in the Declaration, as finally established, from which the term "toleration" is excluded. [Note in MS.]

* An alteration in the handwriting of J. M. erases "of the House" and inserts after "committee," *appointed for that purpose;* and adds, at the end, after "members," *of the House* making the whole read—Laid before the committee appointed for that purpose, which they have ordered to be printed

1. Let the Legislative, executive and judicative departments be separate and distinct, so that neither exercise the powers properly belonging to the other.

2. Let the legislative be formed of two distinct branches, who, together, shall be a complete legislature. They shall meet once, or oftener, every year, and shall be called the GENERAL ASSEMBLY OF VIRGINIA.

3. Let one of these be called the Lower House of Assembly, and consist of two delegates, or representatives, chosen for each county annually, by such men as have resided in the same for

The Legislative, Executive and Judiciary Departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the others; nor shall any person exercise the powers of more than one of them at the same time except that the Justices of the county courts shall be eligible to either House of Assembly

The Legislative shall be formed of two distinct branches, who

for the perusal of the members of the House.

From this correction, it appears that what was laid before the Committee was printed by its order not by that of the convention, as was done in the case of the "Declaration of Rights" reported by Mr. Cary, from the appointed committee: nor is there in the Journal any order for printing any plan of Government reported to the Convention, from a committee. [Note in MS.]

one year last past, are freeholders of the county, possess an estate of inheritance of land in Virginia, of at least one thousand pounds value, and are upwards of twenty four years of age.

4. Let the other be called the Upper House of Assembly, and consist of twenty four members, for whose election, let the different counties be divided into twenty four districts, and each county of the respective district, at the time of the election of its delegates for the Lower House, choose twelve deputies, or subelectors, being freeholders residing therein, and having an estate of inheritance of lands within the district, of at least five hundred pounds value: In case of dispute, the qualifications to be determined by the majority of the said deputies. Let these deputies choose by ballot, one member of the Upper House of Assembly, who is a freeholder of the district, hath been a resident therein for one year last past, possesses an estate of inheritance of lands in Virginia, of at least two thousand pounds value, and is upwards of twenty eight years of age. To keep up this Assembly by rotation, let the districts be equally divided into four classes and numbered.

At the end of one year, after the general election. Let the six members elected by the first division be displaced, rendered ineligible for four years, and the vacancies be supplied in the manner aforesaid. Let this rotation be applied to each division according to its number, and continued in due order annually.

5. Let each House settle its own rules of proceeding, direct writs of election for supplying intermediate vacancies; and let the right of suffrage both in the election of members for the Lower House, and of deputies for the districts, be extended to those having leases for land, in which there is an unexpired term of seven years, and to every Housekeeper who hath resided for one year last past, in the county, and hath been the father of three children in this country.

6. Let all laws originate in the Lower House, to be approved or rejected, by the Upper House; or to be amended with the consent of the Lower House, except money bills, which in no instance shall be altered by the Upper House, but wholly approved or rejected.

7. Let a Governour, or Chief Magistrate be chosen annually by joint ballot of both Houses;

who shall not continue in that office longer than three years successively, and then be ineligible for the next three years. Let an adequate, but moderate salary, be settled on him, during his continuance in office; and let him, with the advice of a council of State, exercise the executive powers of Government, and the power of prorouging or adjourning the General Assembly, or of calling it upon emergencies, and of granting reprieves or pardons, except in cases where the prosecution shall have been carried on by the Lower House of Assembly.

8. Let a privy Council, or Council of State, consisting of eight members, be chosen by joint ballot of both Houses of Assembly, promiscuously, from their own members, or the people at large, to assist in the administration of Government.

Let the Governor be President of this council; but let them annually choose one of their own members, as Vice-President, who, in case of the death or absence of the Governour, shall act as Lieutenant Governour. Let three members be sufficient to act, and their advice be entered of record in their proceedings. Let them appoint their own

clerk, who shall have a salary settled by law, and take an oath of secrecy, in such matters as he shall be directed to conceal, unless called upon by the Lower House of Assembly for information. Let a sum of money, appropriated to that purpose, be divided annually among the members, in proportion to their attendance: and let them be incapable, during their continuance in office, of sitting in either House of Assembly. Let two members be removed by ballot of their own Board, at the end of every three years, and be ineligible for the three next years. Let this be regularly continued, by rotation, so as that no member be removed before he hath been three years in the council: and let these vacancies, as well as those occasioned by death or incapacity, be supplied by new elections, in the same manner as the first.

9. Let the Governour, with the advice of the Privy council, have the appointment of the Militia officers, and the Government of the militia, under the laws of the country.

10. Let the two Houses of Assembly, by joint ballot, appoint judges of the supreme court, judges in chancery,

judges of Admiralty, and the attorney-general, to be commissioned by the Governour, and continue in office during good behaviour. In case of death or incapacity, let the Governour, with the advice of the privy council, appoint persons to succeed in office *pro tempore* to be approved or displaced by both Houses. Let these officers have fixed and adequate salaries, and be incapable of having a seat in either House of Assembly, or in the Privy Council ; except the Attorney-general, and the treasurer, who may be permitted to a seat in the Lower House of Assembly.

11. Let the Governour, and Privy Council, appoint justices of the peace for the counties. Let the clerks of all the courts, the sheriffs and coroners, be nominated, by the respective courts, approved by the Governour and Privy Council, and commissioned by the Governour. Let the clerks be continued during good behaviour, and all fees be regulated by law. Let the justices appoint constables.

12. Let the Governour, any of the Privy Counsellors, judges of the supreme court, and all other officers of government, for mal-administration, or cor-

ruption, be prosecuted by the Lower House of Assembly (to be carried on by the attorney-General, or such other person as the House may appoint) in the supreme court of common law. If found guilty, let him or them be either removed from office; or for ever disabled to hold any office under the Government; or subjected to such pains or penalties as the laws shall direct.

13. Let all commissions run in the name of the *Commonwealth of Virginia*, and be tested by the Governour, with the seal of the commonwealth annexed. Let writs run in the same manner, and be tested by the clerks of the several courts. Let indictments conclude, *Against the peace and dignity of the commonwealth.*

14. Let a treasurer be appointed annually, by joint ballot of both Houses.

15. In order to introduce this government, let the representatives of the people, now met in Convention, choose twenty four members to be an upper House; and let both Houses, by joint ballot, choose a Governour and Privy Council; the upper House to continue until the last day of March next; and the other officers,

until the end of the succeeding session of Assembly. In case of vacancies, the President to issue writs for new elections.*

TO JAMES MADISON. MAD. MSS.

ORANGE, March, Saturdy 1777.[1]

HOND. SIR, * * *

The following odd affair has furnished the Ct of this county with some very unexpected business.

Two persons travelling from Phila to the Southward one of them a Frenchman and an officer in the Continental army and the other a man of decent figure came to the Ct House on the evening of the Ct day and immediately inquired for a member of the Committee; and being withdrawn with several members into a private room they gave information, that they fell in with a man on the road a few miles from the Ct house who, in the course of Conversation on public affairs gave abundant proof of his being an adherent to the King of G. B. and a dangerous Enemy to the State, that he ran into the most outrageous abuse of our proceedings and on their threatening to inform

* It is not known with certainty from whom this first draught of a Plan of Government proceeded. There is a faint tradition that Meriwether Smith spoke of it as originating with him. What is remembered by J. M. is, that George Mason was the most prominent member in discussing and developing the Constitution in its passage through the convention. The Preamble is known to have been furnished by Thomas Jefferson. [Note in MS.]

[1] The first paragraph of this letter relates to family affairs, his brother Anthony having ague and a swelling in the arm. "I ventured however to have a pretty large quantity of blood taken from him and had his arm kept moist by the usual Poultices, which has answered every purpose."

agt him in the most daring manner bid defiance to Committees or whoever should pretend to judge or punish him. They said the man they alluded to had come with them to the Ct House, and they made no doubt but they could point him out in the Crowd. On their so doing the culprit appeared to be Benjamin Haley. As the Committee had no jurisdiction in the case it was referred to a justice of the Peace. Every one seemed to be agreed that his conduct was a direct violation of Law and called aloud for public notice; but the witnesses being travellers and therefore unable to attend at a Trial, it was thought best not to undertake a Prosecution which promised nothing but impunity and matter of triumph to the offender. Here the affair dropped and every one supposed was entirely at an end. But as the Frenchman was accidentally passing through the room where Haley was, he took occasion to admonish the people of his being a disaffected person and upbraided him for his Tory principles. This introduced a debate which was continued for some time with great heat on the part of the Frenchman and great insolence on the part of Haley. At the request of the latter they at length both appeared before a Justice of the peace. Haley at first evaded the charges of his antagonist, but after some time, said he scorned to be *counterfeit*, and in answer to some questions that were put to him, signified that we were in the state of rebellion and had revolted from our lawful Sovereign and that if the King had justice done him his authority would still be in exercise among us. This passed in the presence of 20

or 30 persons, and rendered the Testimony of the Travellers needless. A warrant for arresting him was immediately issued and executed. The criminal went through his examination in which his very Pleas seemed to aggravate his guilt. Witnesses were summoned sworn and their evidences taken. And on his obstinate refusal to give security for his appearance, He was committed to close gaol. This happened about 8 O'Clock. I have since heard he begged abt one O'Clock in the morning to be admitted to bail & went home but not without threats of revenge and making public declaration that he was King George's man. I have stated the case thus particularly not only for your own satisfaction, but that you may, if an opportunity occurs, take the advice of some Gentleman skilled in the Law, on the most proper and legal mode of proceeding against him.

Ambrose requests you will enquire whether any pretty neat Shoe Boots may be had in Fredg and the price of them.

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TO JAMES MADISON. MAD. MSS.

WILLIAMSBURG Jany 23d 1778

HONd SIR,—I got safe to this place on Tuesday following the day I left home, and at the earnest invitation of my kinsman Mr Madison[1] have taken my lodgings in a Room of the Presidents house, which is a much better accomodation than I could have promised myself. It would be very agreeable to me if I

[1] Rev. James Madison, President of William and Mary.

were enabled by such varieties as our part of the Country furnishes, particularly dried fruit &c &c which Mr Madison is very fond of to make some little returns for the culinary favours I receive. Should any opportunity for this purpose offer I hope they will be sent. You will see by the inclosed Acct of Sales what money you have in Mr Lee's hands, and if you chuse to draw for it, you can transmit me your Bills for sale— You will be informed in due time by Advertisement from the Governor what is proper to be done with the Shoes &c &c collected for the Army. You will be able to obtain so circumstantial an acct of public affairs from Majr Moore that I may save myself the trouble of anticipating it—Majr Moore also has for my Mother 14 oz of Bark—The other Articles wanted by the family are not at present to be had. When ever I meet with them I shall provide and transmit them. I hope you will not forget my parting request that I might hear frequently from home, and whenever my brother[1] returns from the Army I desire he may be informed. I shall expect he will make up by letter the loss of intelligence I sustain by my removal out of his way. With the sincerest affection for yourself & all others who I ought particularly to remember on this occasion.

I am Dear Sir your Affectn son

I find on enquiry that Mr Benjamin Winslow is discontinued in the military appointment given him by the Governour & Council. I promised to let him

[1] Ambrose Madison, four years younger than James, joined the army at the outbreak of hostilities.

know this by letter but my being as yet unprovided with paper makes it necessary to leave this information for him with you. J. M Jr

Although I well know how inconvenient and disagreeable it is to you to continue to act as Lieutenant of the County[1] I cannot help informing you that a resignation at this juncture is here supposed to have a very unfriendly aspect on the execution of the Draught and consequently to betray at least a want of patriotism and perseverence. This is so much the case that a recommendation of Conv Lt. this day received by the Govr, to supply the place of one who had resigned to the Court, produced a private verbal message to the old Lt to continue to act at least as long as the present measures were in execution.

J M Jr

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TO JAMES MADISON. MAD. MSS.

WILLIAMSBG March 6th 78

HONd SIR,—Since I wrote to you by Mr Cave I have taken the freedom to give an order on Mr Lee who is at present at Nants for money due to you in favour of the Revd Mr Madison who wanted to procure from Europe a few literary curiosities by means of a French gentleman just setting out on public Business for this State, addressed to the management of Mr Lee. I take the opportunity by Mr Harrison

[1] "His father was still the county lieutenant of Orange; but having reached an age when the duties of the office were felt to be burdensome to declining years, he wished to relieve himself of them in favor of a successor, who should be younger and more capable of exertion."—Rives, i., 191.

from Culpeper of giving you the earliest notice of this circumstance that you may not dispose of your Bills to any other person. As some little return for the favour I am daily receiving from Mr Madison I shall not charge him more than the legal rate of exchange for the money. I have sent for a few Books also on my own account and Mr Lee is requested to transmit whatever late publications relate to G. B. or the present state of European Politics. If any Balance should remain after these purposes are provided for Capt. le Maire the french Gentlm alluded to has engaged to lay it out for us in linen &c. We have no news here that can be depended. It is said by Mr King who is just from Petersbg that a Gentleman was at that place who informed that sundry persons had arrived at Edenton (which he was travelling from) from Providence Island who affirmed that they saw in Providence a London Paper giving an account that Burgoyne's disaster had produced the most violent fermentation in England that the Parliament had refused to grant the supplies for carrying on the war and that a motion for acknowledging our Independence was overruled by a small majority only. The People who bring this news to Edenton, as the story goes, were prisoners wth the Enemy at Providence, where they were released by a New England privateer which suddenly landed her men took possession of the small fort that commanded the Harbour and secured several vessels that lay in it one of which was given up to these men to bring them to the Continent. I leave you to form your own Judgment as to the cred-

ibility of this report—I wish it carried stronger marks of truth.

The Gov^r has just rec^d a letter from the Cap^t of french frigate I mentioned in my last informing him of his safe arrival in N. C. with a rich Cargo of various useful and important Articles, which will be offered for sale to us. The frigate belongs to a Company at Nantes in France—We also hear but in a less authentic manner that 7000 Tents have arrived at Martinique on their way from France to the Grand Army (?)—Salt at South. Quay sells at £3–1 a [illegible] and is falling—A letter from York-Town this moment read informs us that an Exchange of Prisoners is at last agreed on between W [ashington]. & H [owe].

I wish much to hear from you, and shall continue to write by every opportunity.

I am D^r Sir with my constant good wishes &c &c

Y^r affect^n son

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TO JAMES MADISON. MAD. MSS.

WILLIAMSBURG, Dec^r 8^th, 1779.

HONORED SIR,—Having an opportunity by M^r Collins I add a few lines to those I sent by Col. Burnley on the Subject of your's by him. The Assembly have not yet concluded their plan for complying with the requisitions from Congress. It may be relied on that that cannot be done without very heavy taxes on every species of property. Indeed it is thought ques-

tionable whether it will not be found absolutely impossible. No exertions however ought to be omitted to testify our Zeal to support Congress in the prosecution of the War. It is also proposed to procure a large sum on loan by stipulating to pay the Interest in Tob.° A Tax on This article necessary for that purpose is to be collected. Being very imperfectly acquainted with the proceedings of the Assembly on this matter I must refer you for the particulars to the return of Maj.r Moore, or some future opportunity. The law for escheats & forfeitures will be repealed as it respects orphans, &c. The effects of the measures taken by the Assembly on the credit of our money & the prices of things cannot be predicted. If our expectations had not been so invariably disappointed they ought to be supposed very considerable. But from the rapid progress of depreciation at present and the universal struggle among sellers to bring up prices, I cannot flatter myself with the hope of any great reformation. Corn is already at £20 & rising. Tob.° is also rising. Pork will probably command any price. Imported goods exceed everything else many hundreds per cent.

I am much at a loss how to dispose of Willey.[1] I cannot think it would be expedient in the present state of things to send him out of the State. From a new arrangement of the college here nothing is in future to be taught but the higher & rarer branches of Science. The preliminary studies must therefore be pursued in private Schools or Academies. If the

[1] The youngest of James Madison's three brothers.

Academy at Prince Edward is so far dissolved that you think his return thither improper, I would recommend his being put under the instruction of Mr. Maury[1] rather than suffer him to be idle at home. The languages including English, Geography, & arithmetic ought to be his employment till he is prepared to receive a finish to his education at this place.

By the late change also in the college, the former custom of furnishing the table for the President & professors is to be discontinued. I am induced by this consideration to renew my request for the Flour mentioned so often to you. It will perhaps be the only opportunity I may have of requiting received & singular favours, and, for the reason just assigned will be extremely convenient. I wish to know without any loss of time how far this supply may be reckoned. 5 or 600 lb, at least I pursuade myself may be spared from your stock without encroaching on your own consumption. Perhaps Mr. R. Burnley would receive and store it for me. Capt. Wm Anderson I believe also lives at that place and would probably do any favour of that sort. I am desired by a Gentleman here to procure for him 2 Bear Skins to cover the foot of his Chariot. If they can be bought anywhere in your neighborhood I beg you or Ambrose will take the trouble to inquire for them & send them to Capt. Anderson at Hanover Town. If the flour should come down the same opportunity will serve for them.

[1] Rev. James Maury, of Fredericksville, Louisa Co. He was Jefferson's teacher—"a correct classical scholar, with whom I continued two years." See *Jefferson's Writings* (Ford), 1, 3, and n.

Captain Anderson may be informed that they are for Mr. Norton. If they can be got without too much trouble I should be glad of succeeding, as he will rely on my promise to procure them for him.

Having nothing to add under the head of news, I subscribe myself y^r^ dutiful son.[1]

TO JAMES MADISON. MAD. MSS.

PHILADELPHIA, Monday March 20^th^, 1780.[2]

HON^D^ SIR,—The extreme badness of the roads and frequency of rains rendered my journey so slow that I did not reach this place till Saturday last. The only public intelligence I have to communicate is that the great and progressive depreciation of the paper currency had introduced such disorder and perplexity into public affairs for the present and threatened to load the United States with such an intolerable burden of debt, that Congress have thought it expedient to convert the 200,000,000 of Dollars now in circulation into a real debt of 5,000,000 by establishing the exchange at 40 for 1 : and taxes for calling it in during the ensuing year, are to be payable at the option of the people in Specie or paper according to that difference. In order to carry on public measures in future money is to be emitted under the combined faith of Congress and the several States, secured on permanent and specific

[1] A short postscript, partly mutilated, relates to a warrant on "S. Young's Claim."

[2] Monday, March 20, 1780, "Mr. James Madison, jun. a delegate from Virginia, attended and produced credentials of his appointment, which were read." —*Journals of Congress*, iii., 444.

funds to be provided by the latter. This scheme was finally resolved on on Saturday last. It has not yet been printed but will be immediately. I shall transmit a copy to you by the first opportunity. The little time I have been here makes it impossible for me to enter into a particular delineation of it. It will probably create great perplexity and complaints in many private transactions. Congress have recommended to the States to repeal their tender laws, and to take measures for preventing injustice as much as possible. It is probable that in the case of loans to the public, the state of depreciation at the time they were made will be the rule of payment, but nothing is yet decided on that point. I expect to be more at leisure to write fully by next post.

## TO THOMAS JEFFERSON.[1]

PHILADELPHIA, March 27, 1780.

DEAR SIR,—Nothing under the title of news has occurred since I wrote last week by express, except that the enemy on the first of March remained in the neighbourhood of Charleston, in the same posture as when the preceding account came away. From the best intelligence from that quarter, there seems to be great encouragement to hope that Clinton's operations will be again frustrated. Our great apprehensions at present flow from a very different quarter. Among the various conjunctures of alarm and distress which

[1] Then Governor of Virginia. The letter is from the Madison papers (1840). It marks the beginning of the correspondence with Jefferson.

have arisen in the course of the Revolution, it is with pain I affirm to you, sir, that no one can be singled out more truly critical than the present. Our army threatened with an immediate alternative of disbanding or living on free quarter; the public treasury empty; public credit exhausted, nay the private credit of purchasing agents employed, I am told, as far as it will bear; Congress complaining of the extortion of the people; the people of the improvidence of Congress; and the army of both; our affairs requiring the most mature and systematic measures, and the urgency of occasions admitting only of temporizing expedients, and these expedients generating new difficulties; Congress recommending plans to the several States for execution, and the States separately rejudging the expediency of such plans, whereby the same distrust of concurrent exertions that has damped the ardor of patriotic individuals must produce the same effect among the States themselves; an old system of finance discarded as incompetent to our necessities, an untried and precarious one substituted, and a total stagnation in prospect between the end of the former and the operation of the latter. These are the outlines of the picture of our public situation. I leave it to your own imagination to fill them up. Believe me, sir, as things now stand, if the States do not vigorously proceed in collecting the old money, and establishing funds for the credit of the new, that we are undone; and let them be ever so expeditious in doing this, still the intermediate distress to our army, and hindrance to public affairs,

are a subject of melancholy reflection. General Washington writes that a failure of bread has already commenced in the army; and that, for any thing he sees, it must unavoidably increase. Meat they have only for a short season; and as the whole dependence is on provisions now to be procured, without a shilling for the purpose, and without credit for a shilling, I look forward with the most pungent apprehensions. It will be attempted, I believe, to purchase a few supplies with loan-office certificates; but whether they will be received is perhaps far from being certain; and if received will certainly be a most expensive and ruinous expedient. It is not without some reluctance I trust this information to a conveyance by post, but I know of no better at present, and I conceive it to be absolutely necessary to be known to those who are most able and zealous to contribute to the public relief.

## TO THOMAS JEFFERSON.[1]

PHILADELPHIA, May 6, 1780.

DEAR SIR,—I am sorry that I can give you no other account of our public situation, than that it continues equally perplexed and alarming as when I lately gave you a sketch of it. Our army has as yet been kept from starving, and public measures from total stagnation, by draughts on the States for the unpaid requisitions. The great amount of these you may

[1] From the Madison papers (1840).

judge of from the share that has fallen to Virginia. The discharge of debts due from the purchasing departments has absorbed a great proportion of them, and very large demands still remain. As soon as the draughts amount to the whole of the monthly requisitions up to the end of March, they must cease, according to the new scheme of finance. We must then depend wholly on the emissions to be made in pursuance of that scheme, which can only be applied as the old emissions are collected and destroyed. Should this not be done as fast as the current expenditures require, or should the new emissions fall into a course of depreciation, both of which may but too justly be feared, a most melancholy crisis must take place. A punctual compliance on the part of the States with the specific supplies will indeed render much less money necessary than would otherwise be wanted; but experience by no means affords satisfactory encouragement that due and unanimous exertions will be made for that purpose,—not to mention that our distress is so pressing that it is uncertain whether any exertions of that kind can give relief in time. It occurs besides, that as, the ability of the people to comply with the pecuniary requisitions is derived from the sale of their commodities, a requisition of the latter must make the former proportionably more difficult and defective. Congress have the satisfaction, however, to be informed that the legislature of Connecticut have taken the most vigorous steps for supplying their quota both of money and commodities; and that a body of their principal merchants

have associated for supporting the credit of the new paper, for which purpose they have, in a public address, pledged their faith to the assembly to sell their merchandize on the same terms as if they were to be paid in specie. A similar vigor throughout the Union may perhaps produce effects as far exceeding our present hopes, as they have heretofore fallen short of our wishes.

It is to be observed that the situation of Congress has undergone a total change from what it originally was. Whilst they exercised the indefinite power of emitting money on the credit of their constituents, they had the whole wealth and resources of the continent within their command, and could go on with their affairs independently and as they pleased. Since the resolution passed for shutting the press, this power has been entirely given up, and they are now as dependent on the States as the King of England is on the Parliament. They can neither enlist, pay nor feed a single soldier, nor execute any other purpose, but as the means are first put into their hands. Unless the legislatures are sufficiently attentive to this change of circumstances, and act in conformity to it, every thing must necessarily go wrong, or rather must come to a total stop. All that Congress can do in future will be to administer public affairs with prudence, vigor and economy. In order to do which they have sent a committee to Head-Quarters with ample powers, in concert with the Commander-in-Chief and the heads of the Departments, to reform the various abuses which prevail,

and to make such arrangements as will best guard against a relapse into them.

TO THOMAS JEFFERSON.[1]

PHILADELPHIA, June 2, 1780.

DEAR SIR,— It appears from sundry accounts from the frontiers of New York and other Northern States, that the savages are making the most distressing incursions, under the direction of British agents, and that a considerable force is assembling at Montreal for the purpose of wresting from us Fort Schuyler, which covers the northwestern frontier of New York. It is probable the enemy will be but too successful this campaign in exciting their vindictive spirit against us, throughout the whole frontier of the United States. The expedition of General Sullivan against the Six Nations, seems by its effects rather to have exasperated than to have terrified or disabled them. And the example of those nations will add great weight to the exhortations addressed to the more southern tribes.

Rivington has published a positive and particular account of the surrender of Charleston on the twelfth ultimo, said to be brought to New York by the Iris which left Charleston five days after. There are, notwithstanding, some circumstances attending it which, added to the notorious character for lying of the author, leave some hope that it is fictitious. The

[1] From the Madison papers (1840).

true state of the matter will probably be known at Richmond before this reaches you.

We have yet heard nothing further of the auxiliary armament from France. However anxiously its arrival may be wished for, it is much to be feared we shall continue to be so unprepared to co-operate with them, as to disappoint their views, and to add to our distress and disgrace. Scarce a week, and sometimes scarce a day, but brings us a most lamentable picture from Head-Quarters. The army are a great part of their time on short allowance, and sometimes without any at all, and constantly depending on the precarious fruits of momentary expedients. General Washington has found it of the utmost difficulty to repress the mutinous spirit engendered by hunger and want of pay: and all his endeavours could not prevent an actual eruption of it in two Connecticut regiments, who assembled on the parade with their arms, and resolved to return home or satisfy their hunger by the power of the bayonet. We have no permanent resource, and scarce even a momentary one left, but in the prompt and vigorous supplies of the States. The State of Pennsylvania has it in her power to give great relief in the present crisis, and a recent act of her legislature shows, they are determined to make the most of it. I understand they have invested the Executive with a dictatorial authority from which nothing but the *lives* of their citizens are exempted. I hope the good resulting from it will be such as to compensate for the risk of the precedent.

TO THOMAS JEFFERSON.[1]

PHILADELPHIA, June 23, 1780.

DEAR SIR,—The fact is confirmed that Clinton has returned to New York with part of the Southern army, and has joined Kniphausen. They are at present manœuvering for purposes not absolutely known, but most probably in order to draw General Washington to an action, in which they suppose he might be disabled from giving the necessary co-operation to the French armament. Could they succeed in drawing him from his strong position, the result indeed ought to be exceedingly feared. He is weak in numbers beyond all suspicion, and under as great apprehension from famine as from the enemy. Unless very speedy and extensive reinforcements are received from the Eastern States, which I believe are exerting themselves, the issue of the campaign must be equally disgraceful to our councils and disgustful to our allies. Our greatest hopes of being able to feed them are founded on a patriotic scheme of the opulent merchants of this city, who have already subscribed nearly £ , and will very soon complete that sum, the immediate object of which is to procure and transport to the army rations, and three hundred hogsheads of rum. Congress, for the support of this bank, and for the security and indemnification of the subscribers, have pledged the faith of the United States, and agreed to deposit bills of exchange in Europe to the amount of £150,000

[1] From the Madison papers (1840).

sterling, which are not, however, to be made use of, unless other means of discharging this debt should be inadequate.

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, September 12, 1780.[2]

DEAR SIR,—Congress have at length entered seriously on a plan for finally ratifying the Confederation. Convinced of the necessity of such a measure, to repress the hopes with which the probable issue of the campaign will inspire our enemy, as well as to give greater authority and vigor to our public councils, they have recommended, in the most pressing terms, to the States claiming unappropriated back lands, to cede a liberal portion of them for the general benefit. As these exclusive claims formed the only obstacle with Maryland, there is no doubt that a compliance with this recommendation will bring her into the Confederation. How far the States holding the back lands may be disposed to give them up, cannot be so easily determined. From the sentiments of the most intelligent persons which have come to my knowledge, I

[1] From the Madison papers (1840). Pendleton was chosen President of the Virginia Court of Appeals in 1779, and held the office until his death in 1803.

[2] It would appear that shortly before this date Madison was offered an opportunity of representing the United States abroad. His kinsman, Rev. James Madison, wrote to him from Williamsburg, August 3, 1780:

"But is it true that I had like to have lost my valuable Correspondent & Friend. We hear that you have refused an important place in a foreign Embassy.—If so, y^r^ Refusal does you Honour, but at your Time, I think, it w^d^ have been y^e^ highest Gratification to a Person who w^d^ have viewed y^e^ Improvement & y^e^ [torn out] with a philosophical Eye.—And no Doubt all y^e^ Honours America could confer w^d^ in Time have succeeded."—Mad. MSS.

own I am pretty sanguine that they will see the necessity of closing the Union, in too strong a light to oppose the only expedient that can accomplish it.

Another circumstance, that ought greatly to encourage us under disappointed expectations from the campaign, is the combination of the maritime powers in support of their neutral rights, and particularly the late insolent and provoking violation of those rights by the English ships at St. Martin's. It is not probable that the injured will be satisfied without reparations and acknowledgments which the pride of Britain will not submit to; and if she can once be embroiled in an altercation with so formidable a league, the result must necessarily be decisive in our favor. Indeed it is not to be supposed, after the amazing resources which have been seen in Great Britain, when not only deprived of, but opposed by, her ancient Colonies, and the success of the latter in resisting for so long a time the utmost exertion of these resources against her, that the maritime powers, who appear to be so jealous of their rights, will ever suffer an event to take place which must very soon expose them to be trampled on at the pleasure of Great Britain.

## TO JOSEPH JONES.[1]

PHILADELPHIA, September 19, 1780.

DEAR SIR,—Yesterday was employed by Congress in discussing the resolutions you left with them.

[1] From the Madison papers (1840). Jones served in Congress from 1780 to 1783, and was temporarily absent in Virginia during September and October. See *Letters of Joseph Jones*, Department of State, 1889.

The first and second were passed after undergoing sundry alterations.[1] The clause in the second for allowing the expense of maintaining civil government within the ceded territory, was struck out by the committee, and an attempt to get it re-inserted in the House was negatived. It was surmised, that so indefinite an expression might subject Congress to very exorbitant claims. With respect to Virginia, I believe that expense has not been so considerable as to be much worth insisting on. The principal expenses may properly be included under the military head. The consideration of the last resolution, annulling Indian purchases, was postponed, with an intention, I believe, of not resuming it. It is supposed by some to be unnecessary; by others, to be improper, as implying that without such previous assurance Congress would have a right to recognize private claims in a territory expressly given up to them for the common benefit. These motives prevailed, I am persuaded, with more than the real view of gratifying private interest at the public expense. The States may annex what conditions they please to their cessions, and by that means guard them against misapplication; or if they only annul all pretended purchases by their own laws before the cessions are made, Congress are sufficiently precluded, by their own general assurance that they shall be applied

[1] "I think you acted very prudently in declining to press on the part of Virginia the Resolutions I left for the consideration of Congress. Had I been present, I should have done the same, as I had no intention when they were offered that Virginia should appear anxious about them."—Jones to Madison, October 9, 1780, *Letters of Joseph Jones*, 30.

to the common benefit, from admitting any private claims which are opposed to it.

The Vermont business has been two days under agitation and nothing done in it, except rejecting a proposition for postponing the determination of Congress till Commissioners should enquire into the titles and boundaries of New Hampshire and New York. Congress having bound themselves so strongly by their own act to bring it to an issue at this time, and are pressed by New York so closely with this engagement, that it is not possible any longer to try evasive expedients. For my own part, if a final decision must take place, I am clearly of opinion that it ought to be made on principles that will effectually discountenance the erection of new Governments without the sanction of proper authority, and in a style marking a due firmness and decision in Congress.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD^R Sep^r. 19^th 1780

DEAR SIR,—I was in hopes when I wrote my last that I should be able by this post to congratulate you on the arrival of the French fleet from the W. Indies But so far is this from being the case that it comes from authority which seems to have a just claim to our faith that Admiral Rodney is actually at the Hook with 12 sail of the line & 4 frigates. It is still said however that a french fleet is somewhere on the coast. The arrival of Rodney is certainly an evi-

dence that it had quited the Islands and was suspected to be coming hither. It is also given out at New York that a reinforcement of 4000 troops will arrive next month from England. Another part of our reports is that 5 or 6000 troops will embark at N. York on the 25th inst. for Virg[a] or S. Carolina: but it is not to be supposed that such a measure will be hazarded in the present ticklish state of things— 22 sail of the Quebec fleet are carried prizes into N. England.

I am D[r] Sir with sincere respect
Y[r] ob[t] friend & servt.

P. S. The mortality in this place exceeds any thing ever remembered. The only person of note that occurs at present is the Lady of President Reid who fell a victim to it yesterday morning.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD[A] Sep[r] 26[h] 1780.

DEAR SIR,—Yesterday's post disappointed me of the pleasure of a line from you. I hope the next will not fail to make amends for it.

I have nothing to add to the inclosed paper except that Ternay is yet unreinforced, Graves at Sea no one knows where, or for what purpose, and Rodney with 10 ships of the line still at the Hook, though according to some private accounts he also is gone to sea. In this state of uncertainty conjectures & speculations abound as usual. I shall not trouble you with them, because, as far as they are founded in reason

they will be much better formed by yourself. We hear nothing further of an intended visit from N. Y. to Virginia. With sincere respect & regard

I am Dr Sr Yrs &c.

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TO EDMUND PENDLETON. MAD. MSS.

PhilA Oct 3d 1780.

Dear Sir,—I had the pleasure of receiving yours of the 25 ulo yesterday and am sorry it is not in my power to gratify your hopes with any prospect of a successful issue to this campaign. The reports of the approach or arrival of a French fleet continue to be circulated, and to prove groundless. If any foreign operations are undertaken on the continent it will probably be against the Floridas by the Spaniards. A Spanish Gentleman who resides in this City has received information from the Governor of Cuba that an armament would pass from the Havannah to Pensacola towards the end of last month, and that 10 or 12 ships of the line and as many thousand troops would soon be in readiness for an expedition against St. Augustine. It would be much more for the credit of that nation as well as for the common good, if instead of wasting their time & resources in these separate and unimportant enterprises, they would join heartily with the French in attacking the Enemy where success would produce the desired effect.

The enclosed papers contain all the particulars which have been received concerning the apostacy & plot of Arnold. A variety of his iniquitous jobs prior to

this chef d'œuvre of his villainy, carried on under cover of his military authority, have been detected among his papers, and involve a number of persons both within & without the Enemies lines. The embarkation lately going on at N. York, and given out to be destined for Virginia or Rhode Island, was pretty certainly a part of the plot against W. Point; although the first representation of it has not yet been officially contradicted.

With sincere regard, I am, etc.

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TO EDMUND PENDLETON. MAD. MSS.

PHIL$^{A}$ Oct$^{r}$ 10$^{th}$ 1780.

DEAR SIR,—Your favor of the first Inst. came safe to hand yesterday. The enclosed was sent to Mr. Pendleton who is still in town.

All we know of the several fleets in the American seas is that Rodney with a few ships is at N. York, the remainder having joined Graves & Arbuthnot whom we know nothing about. Ternay is still at Rhode Island. The main French fleet under Guichen left the West Indies about the time first mentioned with a large fleet of merchantmen under its convoy, and has not since been heard of. The residue of the french fleet is in the W. Indies but we do not hear of their being any way employed. It is said an English expedition is preparing at Jamaica against some of the Spanish settlements. The Spanish expeditions against the Floridas I believe I mentioned in my last.

We have private accounts, through a channel which has seldom deceived that a very large embarkation is still going on at N. York. I hope Virginia will not be surprised, in case she should be the meditated victim. André was hung as a spy on the 2d inst. Clinton made a frivolous attempt to save him by pleading the passport granted by Arnold. He submitted to his fate in a manner that showed him to be worthy of a better one. His coadjutor Smith will soon follow him. The Hero of the Plot, although he may for the present escape an ignominious death must lead an ignominious life which if any of his feelings remain will be a sorer punishment. It is *said* that he is to be made a Brigadier and employed in some predatory expedition against the Spaniards in which he may gratify his thirst for gold. It is said with more probability that his baseness is universally despised by those who have taken advantage of it, and y$^{t}$ some degree of resentment is mixed with their contempt on account of the loss of their darling officer to which he was accessory.

With sincere regard, I am, etc.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD$^{A}$ Oct. 1780

DEAR SIR,—Your favour of the 8$^{th}$ which ought to have been here on Monday week did not arrive till thursday; that of the 17$^{th}$ came yesterday according to expectation. I know not how to account for your disappointment on the last post day having not

omitted to write once since the institution of our correspondence.

Although the stroke of good fortune you mention does not appear to have been duly represented, it was only mistaken for one of equal importance which I doubt not is fully known to you by this time. Our joy on this event has been somewhat abated by intelligence of an opposite complexion from the State of N. York. Two parties from Canada composed of regulars tories Canadians and savages and amounting to about 1000 each have entered their frontiers, the one by the way of lake George, the other by the way of the Oneida lake. They have already done some mischief, and as they are pursuing their incendiary plan, will involve the inhabitants in very great distress, (it being now the eve of winter) unless a speedy check can be given to their progress. It is supposed that this expedition was intended to take advantage of the consternation in that state expected to result from the success of Arnolds treason.

We had information some days ago from Gen[l] Washington that a fleet with about 2000 troops on Board had fallen down towards the Hook, which it was supposed was destined either for Virginia or N. Carolina. As nothing further has come from the General it is to be inferred that they have not yet sailed. It is said the fleet consisting of upwards of 100 sail has at last safely arrived. The capture of the British fleet from Jamaica rests upon the same evidence as mentioned in my last. I am D[r] S[r]

Affec yr. ob[t] Serv[t]

P. S. The President has just communicated a letter from M^r^ Harrison [1] at Cadiz confirming the capture of the B. fleet. Some of the Pris[oners were] in that bay when he wrote. The number taken was not known. The fleet amounted to 60 or 70 sail, having on board military stores provisions dry goods & 1000 Highland troops for the East Indies. You will have the particulars by the next post. 5 or 6 ships also attempting to get into Gibralter with provisions have been taken by the Spanish [illegible] stationed off that place. 30 sail of French merchantmen had arrived safe from S^t^ Domingo. The post is this moment starting. Adieu.

## TO JOSEPH JONES.[2]

PHILADELPHIA, October, 1780.

DEAR SIR,—I wish it was in my power to enable you to satisfy the uneasiness of people with respect to the disappointment in foreign succours. I am sensible of the advantage which our secret enemies take of it. I am persuaded also that those who ought to be acquainted with the cause are sensible of it; and as they give no intimations on the subject, it is to be inferred that they are unable to give any that would prevent the mischief. It is so delicate a subject, that, with so little probability of succeeding, it would perhaps be hardly prudent to suggest it. As

[1] Under date of August 2, 1780, George Mason wrote to Madison, saying that if Congress decided to appoint a consul to Spain he would recommend Richard Harrison for the place.—Mad. MSS.

[2] From the Madison papers (1840).

soon as any solution comes out you shall be furnished with it.

We continue to receive periodical alarms from the commissary's and quarter-master's departments. The season is now arrived when provision ought to be made for a season that will not admit of transportation, and when the monthly supplies must be subject to infinite disappointments, even if the States were to do their duty. But instead of magazines being laid in, our army is living from hand to mouth, with a prospect of being soon in a condition still worse. How a total dissolution of it can be prevented in the course of the winter is, for any resources now in prospect, utterly inexplicable, unless the States unanimously make a vigorous and speedy effort to form magazines for the purpose. But unless the States take other methods to procure their specific supplies than have prevailed in most of them, the utmost efforts to comply with the requisitions of Congress can be only a temporary relief. This expedient, as I take it, was meant to prevent the emission of money. Our own experience, as well as the example of other countries, made it evident that we could not by taxes draw back to the treasury the emissions as fast as they were necessarily drawn out. We could not follow the example of other countries by borrowing, neither our own citizens nor foreigners being willing to lend as far as our wants extended. To continue to emit *ad infinitum*, was thought more dangerous than an absolute occlusion of the press. Under these circumstances, the expedient of specific requisitions was

adopted for supplying the necessities of the war. But it is clear the success of this expedient depends on the mode of carrying it into execution. If, instead of executing it by specific taxes, State emissions or commissary's and quarter-master's certificates, which are a worse species of emissions, are recurred to, what was intended for our relief will only hasten our destruction.

As you are at present a *legislator*,[1] I will take the liberty of hinting to you an idea that has occurred on this subject. I take it for granted that taxation alone is inadequate to our situation. You know as well as I do, how far we ought to rely on loans to supply the defects of it. Specific taxes, as far as they go, are a valuable fund, but from local and other difficulties will never be universally and sufficiently adopted: purchases with State money or certificates will be substituted. In order to prevent this evil, and to ensure the supplies, therefore, I would propose, that they be diffused and proportioned among the people as accurately as circumstances will admit; that they be *impressed* with vigor and impartiality; and paid for in certificates not transferable, and to be redeemable, at some period subsequent to the war, at specie value, and bearing an intermediate interest. The advantage of such a scheme is this, that it would anticipate during the war the future revenues of peace, as our enemies and all other modern nations do. It would be compelling the people to *lend* the

[1] Jones was a member of the Virginia Legislature as well as of the Continental Congress.

public their commodities, as people elsewhere lend their money to purchase commodities. It would be a permanent resource by which the war might be supported as long as the earth should yield its increase. This plan differs from specific taxes in this, that as an equivalent is given for what is received, much less nicety would be requisite in apportioning the supplies among the people, and they would be taken in places where they are most wanted. It differs from the plan of paying for supplies in State emissions or common certificates, in this, that the latter produce all the evils of a redundant medium, whereas the former, not being transferable, cannot have that effect, and moreover do not require the same degree of taxes during the war.

## TO JOSEPH JONES.[1]

PHILADELPHIA, October 17, 1780.

DEAR SIR,—The post having failed to arrive this week, I am deprived of the pleasure of acknowledging a line from you.

Congress have at length been brought to a final consideration of the clause relating to Indian purchases, [by the land companies.] It was debated very fully and particularly, and was, in the result, lost by a division of the House. Under the first impression of the chagrin, I had determined to propose to my colleagues to state the whole matter to the Assembly, with all the circumstances and the

[1] From the Madison papers (1840).

reasonings of the opponents to the measure; but, on cooler reflection, I think it best to leave the fact in your hands, to be made use of as your prudence may suggest. I am the rather led to decline the first determination, because I am pretty confident, that, whatever the views of particular members might be, it was neither the wish nor intention of many who voted with them, to favor the purchasing companies. Some thought such an assurance from Congress unnecessary, because their receiving the lands from the States as *vacant* and unappropriated, excluded all individual claims, and because they had given a general assurance that the cession should be applied to the common benefit. Others supposed that such an assurance might imply, that without it Congress would have a right to dispose of the lands in any manner they pleased, and that it might give umbrage to the States claiming an exclusive jurisdiction over them. All that now remains for the ceding States to do, is to annex to their cessions the express condition, that no private claims be complied with by Congress. Perhaps it would not be going too far, by Virginia, who is so deeply concerned, to make it a condition of the grant, that no such claim be admitted even within the grants of others, because, when they are given up to Congress, she is interested in them as much as others, and it might so happen, that the benefit of all other grants, except her own, might be transferred from the public to a few landmongers. I cannot help adding, however, that I hope this incident in Congress will not discourage any measures of the

Assembly, which would otherwise have been taken [for the object] of ratifying the Confederation. Under the cautions I have suggested, they may still be taken with perfect security.

Congress have promoted Col. Morgan to the rank of a Brigadier, on the representations in favor of it from Governors Rutledge, and Jefferson, and General Gates. The latter is directed to be made a subject of a Court of Inquiry, and General Washington is to send a successor into the Southern department. The new arrangement of the army, sent to the General for his revision, has brought from him many judicious and valuable observations on the subject, which, with the arrangement, are in the hands of a committee.

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TO EDMUND PENDLETON. MAD. MSS.

PHILDA Oct. 17th 1780

DEAR SIR,—The Southern post having not yet arrived, I have not the pleasure of acknowledging the receipt of your favor, which I have found you too punctual to doubt has been [illegible].

The best news I have to give you is contained in the enclosed paper in a letter from Eustatia, which comes from a person known to many Gentlemen here who say it may be fully credited. The Saratoga a Continental vessel of 16 guns is just returned from a cruise on which she took several Jamaica prizes with a prodigious quantity of rum & sugar on board. She parted from them in a fog near the coast, and as they have not yet been heard of it is feared they have fallen back into the possession of the Enemy.

Baron Stuben just come to town brings a report that an embarkation left N. York on thursday, but no confirmation has yet arrived from G[l] Washington or any other official source.

Adieu.

By a letter just rec[d] from the continental ag[t] as stated by the Commercial Committee the capture of the British fleet by the Spaniards is brought pretty nearly to certainty.

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INSTRUCTIONS TO JOHN JAY. CONT. CONG.

BOUNDARIES AND FREE NAVIGATION OF THE MISSISSIPPI.[1]

[Oct. 17, 1780.]

The Committee appointed to draught a letter to the Ministers Plenipotentiary at the Courts of Versailles and Madrid, explaining the reasons and principles on which the instructions to M[r] Jay of the 4[th] inst. are founded report the following to M[r] Jay, a copy of which with the resolution directing the draught to be also inclosed to D[r] Franklin

SIR

Congress having in their instructions of the 4[th] inst; directed you to adhere strictly to their former instructions relating to the boundaries of the United States, to insist on the navigation of the Mississippi for the Citizens of the United States in common with the subjects of his Catholic Majesty, as also on a free port or ports below the Northern limit of W. Florida & accessible to Merchant ships, for the use of the former, and being sensible of the influence which these claims on the part of the United States may have on your negotiations with the Court of Madrid, have thought it expedient to explain the reasons and principles on

[1] Endorsed: "Report of Com[ee] app[d] to Draught a letter to the Ministers at the courts of Versailles and Madrid &c." The whole paper is in Madison's hand.

which the same are founded, that you may be enabled to satisfy that Court of the equity and justice of their intentions.

With respect to the first of these articles by which the river Miss : is fixed as the boundary between the Spanish settlements and the United States, it is unnecessary to take notice of any pretentions founded on priority of discovery, of occupancy or on conquest. It is sufficient that by the definitive treaty of Paris 1763 Art. 7 all the territory now claimed by the United States was expressly and irrevocably ceded to the King of G. Britain—and that the United States are in consequence of revolution in their Government entitled to the benefits of that cession.

The first of these positions is proved by the treaty itself. To prove the last, it must be observed that it is a fundamental principle in all lawful Governments and particularly in the constitution of the British Empire, that all the rights of sovereignty are intended for the benefit of those from whom they are derived and over whom they are exercised. It is known also to have been held for an inviolable principle by the United States whilst they remained a part of the British Empire, that the Sovereignty of the King of England with all the rights & powers included in it, did not extend to them in virtue of his being acknowledged and obeyed as King by the people of England or of any other part of the Empire, but in virtue of his being acknowledged and obeyed as King by the people of America themselves ; and that this principle was the basis, first of their opposition to, and finally of their abolition of, his authority over them. From these principles it results that all the territory lying within the limits of the States as fixed by the Sovereign himself, was held by him for their particular benefit, and must equally with other rights and claims in quality of their sovereign be considered as having devolved on them in consequence of their resumption of the Sovereignty to themselves.

In support of this position it may be further observed that all the territorial rights of the King of G. Britain within the limits of the United States accrued to him from the enterprises, the risks, the sacrifices, the expence in blood and treasure of the present inhabitants and their progenitors. If in latter times expences and exertions have been borne by any other part of the

Empire in their immediate defence it need only be recollected that the ultimate object of them was the general security and advantage of the empire, that a proportionate share was borne by the States themselves, and that if this had not been the case, the benefits resulting from an exclusive enjoyment of their trade have been an abundant compensation. Equity and justice therefore perfectly coincide in the present instance with political and constitutional principles.

No objection can be pretended against what is here said, except that the King of G. Britain was at the time of the rupture with his Catholic Majesty possessed of certain parts of the territory in question, and consequently that his C. M. had and still has a right to regard them as lawful objects of conquest. In answer to this objection it is to be considered. 1st that these possessions are few in number and confined to small spots. 2. that a right founded on conquest being only coextensive with the objects of conquest, cannot comprehend the circumjacent territory. 3. that if a right to the said territory depended on the conquest of the British posts within it the United States have already a more extensive claim to it, than Spain can acquire, having by the success of their arms obtained possession of all the important posts and settlements on the Illinois and Wabash, rescued the inhabitants from British domination, and established civil government in its proper form over them. They have moreover established a post on a strong and commanding situation near the mouth of the Ohio, whereas Spain has a claim by conquest to no post above the Northern bounds of W. Florida except that of Natches, nor are there any other British posts below the mouth of the Ohio for their arms to be employed against. 4. that whatever extent ought to be ascribed to the right of conquest, it must be admitted to have limitations which in the present case exclude the pretentions of his Catholic Majesty by the King of G. Britain. If the occupation of posts within the limits of the United States as defined by charters derived from the said King when constitutionally authorised to grant them, makes them lawful objects of conquest to any other power than the United States, it follows that every other part of the United States that is now or may hereafter fall into the hands of the Enemy is equally an object of

conquest. Not only N. York Long Island & the other islands in its vicinity, but almost the entire States of S. Carolina and Georgia, might by the interposition of a foreign power at war with their Enemy be forever severed from the American Confederacy and subjected to a foreign Yoke. But is such a doctrine consonant to the rights of nations or the sentiments of humanity? does it breathe that spirit of concord and amity which is the aim of the proposed alliance with Spain? would it be admitted by Spain herself if it affected her own dominions? Were for example a British armament by a sudden enterprise to get possession of a sea port a trading town or maritime province in Spain and another power at war with Britain should before it could be reconquered by Spain wrest it from the hands of Britain, would Spain herself consider it as an extinguishment of her just pretentions? or would any impartial nation consider it in that light?

The right of the United States to Western territory as far as the Mississippi having been shewn, there are sufficient reasons for them to insist on that right as well as for Spain not to wish a relinquishment of it.

In the first place the river Mississippi be a more natural more distinguishable and more precise boundary than any other that can be drawn eastwardly of it, and consequently will be less liable to become a source of those disputes which too often proceed from uncertain boundaries between nations.

Secondly. It ought to be conceeded that although the vacant territory adjacent to the Mississippi should be relinquished by the United States to Spain, yet the fertility of its soil and its convenient situation for trade might be productive of intrusions by the Citizens of the former which their great distance would render it difficult to restrain and which might lead to an interruption of that harmony which it is so much to the interest and wish of both should be perpetual.

Thirdly. As this territory be within the charter limits of particular States and is considered by them as no less their property than other territory within their limits, Congress could not relinquish it with out exciting discussions between themselves & these States concerning their respective rights and powers which

might greatly embarrass the public councils of the United States and give advantage to the common enemy.

Fourthly. The territory in question contains a number of inhabitants who are at present under the protection of the United States and have sworn allegiance to them. These could not by voluntary transfer be subjected to a foreign jurisdiction without manifest violation of the common rights of mankind and of the genius and principles of the American Governments.

Fifthly. In case the obstinacy and pride of G. Britain should for any length of time continue an obstacle to peace a cession of this territory rendered of so much value to the United States by its particular situation would deprive them of one of the material funds on which they rely for pursuing the war against her, on the part of Spain, this territorial fund is not needed for and perhaps could not be applied to the purposes of the war and from its situation is otherwise of much less value to her than to the United States.

Congress have the greater hopes that the pretentions of his Catholic Majesty on this subject will not be so far urged as to prove an insuperable obstacle to an alliance with the United States, because they conceive such pretentions to be incompatible with the treaties subsisting between France and them which are to be the basis and substance of it. By Art; 11 of the Treaty of Alliance eventual and defensive the *Possessions* of the United States are guarantied to them by his most Il[s] Majesty. By Art; 12 of the same treaty intended to fix more precisely the sense and application of the preceeding article, it is declared that this guarantee shall have its full force and effect the moment a rupture shall take place between France and England. All the *possessions* therefore belonging to the United States at the time of that rupture, which being prior to the rupture between Spain and England must be prior to all claims of conquest by the former, are guarantied to them by his most Il[s] Majesty. Now that in the *possessions* thus guarantied was meant by the Contracting parties to be included all the territory within the limits assigned to the United States by the Treaty of Paris, may be inferred from Art: 5 of the Treaty above mentioned, which declares that if the United States should think fit to attempt the reduction of the British power remaining

in the Northern parts of America, on the Islands of Bermudas &c., those countries shall in case of success be considered with or dependent upon the United States ; for if it had not been understood by the parties that the Western territory in question known to be of so great importance to the United States and a reduction of it so likely to be attempted by them, was included in the general guarantee, can it be supposed that no notice would have been taken of it when the parties extended their views not only to Canada but to the remote & unimportant Islands of Bermudas. It is true these acts between France and the United States are in no respect obligatory on his Catholic Majesty until he shall think fit to accede to them. Yet as they shew the sense of his most Il[s] Majesty on this subject with whom his C. M is intimately allied, as it is in pursuance of an express reservation to his C. M in a secret act subjoined to the treaties aforesaid of a power to accede to those treaties that the present overtures are made on the part of the United States, and as it is particularly stated in that Act, that any conditions which his C. M shall think fit to add are to be analogous to the principal aim of the Alliance and conformable to the rules of equality reciprocity & friendship, Congress entertains too high an oppinion of the equity moderation & wisdom of his C. M not to suppose, that when joined to these considerations they will prevail against any mistaken views of interest that may be suggested to him.

The next object of the instruction is the free navigation of the Mississippi for the citizens of the United States in common with the subjects of his C. M.

On this subject the same inference may be made from Art: 7 of the Treaty of Paris which stipulates this right in the amplest manner to the King of G. Britain and the devolution of it to the United States as was applied to their territorial claims, of the latter. Nor can Congress hesitate to believe that even if no such right could be inferred from that treaty, that the generosity of his C. M would suffer the inhabitants of these States to be put into a worse condition in this respect by their alliance with him in the character of a sovereign people, than they were when subjects of a power who was always ready to turn their force against his Majesty ; especially as one of the great objects of the proposed

alliance is to give greater effect to the common exertions for disarming that power of the faculty of disturbing others.

Besides as the United States have an indisputable right to the possession of the East bank of the Mississippi for a very great distance, and the navigation of that river will essentially tend to the prosperity and advantage of the Citizens of the United States that may reside on the Mississippi or the waters running into it, it is conceived that the circumstance of Spain's being in possession of the banks on both sides near the mouth, cannot be deemed a natural or equitable bar to the free use of the river. Such a principle would authorize a nation disposed to take advantage of circumstances to contravene the clear indications of nature and providence, and the general good of mankind.

The usage of nations accordingly seems in such cases to have given to those holding the mouth or lower parts of a river no right against those above them except the right of imposing a moderate toll and that on the equitable supposition that such toll is due for the expence and trouble the former may have been put to.

"An *innocent passage* (says Vattel) is due to all nations with whom a State is at peace, and this duty comprehends troops equally with individuals." If a right to a passage by land through other countries may be claimed for troops which are employed in the destruction of mankind ; how much more may a passage by water be claimed for commerce which is beneficial to all nations.

Here again it ought not to be concealed that the inconvenience that must be felt by the inhabitants on the waters running westwardly under an exclusion from the use of the Mississippi would be a constant and increasing source of disquietude on their part, of more rigerous precautions on the part of Spain and, of an irritation on both parts, which it is equally to the interest and duty of both to guard against.

But notwithstanding the equitable claim of the United States to the *free* navigation of the Mississippi and its great importance to them, Congress have so strong a disposition to conform to the desires of his C. M that they have agreed that such equitable regulations may be entered into as may be a requisite security

against contraband ; provided the point of right be not relinquished and a *free port or ports below the 31st degree of N. L. and accessible to merchant ships be stipulated to them.*

The reason why a port or ports as thus described was required must be obvious, without such a stipulation the free use of the Mississippi would in fact amount to no more than a free intercourse with New Orleans and the other ports of Louisiana. From the rapid current of this river it is well known that it must be navigated by vessels of a peculiar construction and which will be unfit to go to sea. Unless therefore some place be assigned to the U. S. where the produce carried down the river and the merchandise returning from abroad may be reposited till they can be respectively taken away by the proper vessels there can be no such thing as a foreign trade.

There is a remaining consideration respecting the navigation of the Mississippi which deeply concerns the maritime powers in general but more particularly their Most Ils and Catholic Majesties. The Country watered by the Ohio with its large branches having their sources near the lakes on one side, and those running N. Westward and falling into it on the other side, will appear from a single glance on a map to be of vast extent. The circumstance of it being so finely watered added to the singular fertility of its soil and the other advantages presented by a new country, will occasion a rapidity of population not easily conceived. The spirit of emigration has already shewn itself in a very strong degree, notwithstanding the many impediments which discourage it. The principal of these impediments is the war with Britain which can not spare a force sufficient to protect the emigrants against the incursions of the Savages. In a very few years after peace shall take place this Country will certainly be overspread, with inhabitants. In like manner as in all other new settlements agriculture, not manufactures will be their employment. They will raise wheat corn Beef Pork tobacco hemp flax and in the Southern parts perhaps rice and indigo in great quantities. On the other hand their consumption of foreign manufactures will be in proportion, if they can be exchanged for the produce of their soil. There are but two channels through which such commerce can be carried on, the first is on the river Mississippi—

the other is up the rivers having their sources near the lakes, thence by short portages to the lakes or the rivers falling into them, and thence through the lakes and down the St. Lawrence. The first of these channels is manifestly the most natural and by far the most advantageous. Should it however be obstructed, the second will be found far from an impracticable. If no obstructions should be thrown in its course down the Mississippi, the exports from this immense tract of Country will not only supply an abundance of all necessaries for the W. Indies Islands, but serve for a valuable basis of general trade, of which the rising spirit of commerce in France & Spain will no doubt particularly avail itself. The imports will be proportionally extensive and from the climate as well as other causes will consist in a great degree of the manufactures of the same countries. On the other hand should obstruction on the Mississippi force this trade into a contrary direction through Canada, France and Spain and the other maritime powers will not only lose the immediate benefit of it to themselves, but they will also suffer by the advantage it will give to G. Britain. So fair a prospect should not escape the commercial sagacity of this nation. She would embrace it with avidity ; she would cherish it with most studious care ; and should she succeed in fixing it in that channel, the loss of her exclusive possession of the trade of the United States might prove a much less decisive blow to her maritime preeminence and tyranny than has been calculated.

The last clause of the instructions respecting the navigation of the waters running out of Georgia through West Florida, not being included in the ultimatum, nor claimed on a footing of right requires nothing to be added to what it speaks itself. The utility of the privilege asked to the State of Georgia and consequently to the Union is apparent from the geographic representation of the Country. The motives for Spain to grant it must be found in her equity generosity and disposition to cultivate our friendship and intercourse.

These observations you will readily discern are not communicated, in order to be urged in all events and as they here stand in support of the claims to which they relate. They are intended for your private information and use and are to be urged so far

and in such form only as will best suit the temper and Sentiments of the Court at which you reside, and best fulfil the object of them.

TO EDMUND PENDLETON.[1]

PHILADELPHIA, October 31, 1780.

DEAR SIR,—Congress have felt a becoming resentment of the barbarous treatment of the gentlemen in captivity at Charleston, and have directed General Washington to require of Clinton an explanation of the matter. Nothing has yet been done in consequence of it, except an application to Clinton, which, as he had at that time not been officially informed of the fact, he evaded by general assurances of the humanity, &c., of Cornwallis. General Washington had very luckily, between the application and the answer, received two of the Earl's bloody proclamations, which he very handsomely communicated to Sir Henry.

TO JOSEPH JONES.[1]

PHILADELPHIA, November, 1780.

DEAR SIR,—Many attempts have been made to bring the Vermont dispute to an issue, but the diversity of opinions that prevail on one side, and the dilatory artifices employed on the other, have frustrated them. All the evidence has been heard, and the proposition for including it within the jurisdiction of some one of the States, debated for some time, but the decision was suspended. An arrangement of the

[1] From the Madison Papers (1840).

army founded on General Washington's letter has passed Congress, and is now with the General for his observations on it. It includes a recommendation to the States to fill up their quotas. No arrangement of the civil departments has taken place. A new medical system has been passed. Shippen is again at the head of it. Craig and Cochran have not been forgotten. The instructions relating to the Mississippi have passed entirely to my satisfaction. A committee is now preparing a statement of the reasons and principles on which they stand.

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, November 7, 1780.

DEAR SIR,—Doctor Lee and Mr. Izard, particularly the latter, have been here sometime, and I believe are not very reserved in their reflections on the venerable philosopher at the Court of Versailles. Mr. Izard, I understand, is particularly open in his charges against him. Doctor Lee on his arrival applied to Congress for a hearing on the subject of Mr. Dean's allegations, if any doubt remained of the falsehood and malice of them, but nothing final has been done as yet in consequence of it. I have had great anxiety lest the flame of faction, which on a former occasion proved so injurious, should be kindled anew ; but, as far as I can judge, the temper of Congress is in general by no means prone to it, although there may be individuals on both sides who would both wish and endeavour it.

[1] From the Madison Papers (1840).

Congress have just finished an estimate of supplies for the ensuing year, requiring of the States the value of six millions of dollars in specie. The principal part of the requisition consists of specific articles, the residue of specie or the new emissions, receivable as specie. If the States fulfil this plan punctually, there is no doubt that we shall go smoothly through another campaign; and if they would forbear recurring to State emissions and certificates, in procuring the supplies, it may become a permanent and effectual mode of carrying on the war. But past experience will not permit our expectations to be very sanguine. The collection and transportation of specific supplies must necessarily be tedious and subject to casualties; and the proceedings of separate popular bodies must add greatly to the uncertainty and delay. The expense attending the mode is of itself a sufficient objection to it, if money could by any possible device be provided in due quantity. The want of this article is the source of all our public difficulties and misfortunes. One or two millions of guineas properly applied, would diffuse vigor and satisfaction throughout the whole military departments, and would expel the enemy from every part of the United States. It would also have another good effect. It would reconcile the army and everybody else to our republican forms of government; the principal inconveniences which are imputed to them being really the fruit of defective revenues. What other States effect by money, we are obliged to pursue by dilatory and indigested expedients, which benumb all our operations,

and expose our troops to numberless distresses. If these were well paid, well fed, and well clothed, they would be well satisfied, and would fight with more success. And this might and would be as well effected by our governments as by any other, if they possessed money enough, as in our moneyless situation the same embarrassments would have been experienced by any government.

TO EDMUND PENDLETON. MAD. MSS.

PHILADA., Nov. 14, 1780.

DEAR SIR,—Your favor of the 6th inst. came to hand yesterday. Mr. Griffin by whom you appear also to have written has not yet arrived.

It gives me great pleasure to find that the enemy's numbers are so much less formidable than was at first computed but the information from N. York makes it not improbable that the blank in the computation may shortly be filled up. Gen! Washington wrote to Congress on the 4th inst. that another embarkation was going on at that place, and in another letter of the 7th he says that although he had received no further intelligence on the subject, he had reason still to believe that such a measure was in contemplation. Neither the amount nor the object of it however had been ascertained.

The inroads of the Enemy on the Frontier of N. York have been distressing & wasteful almost beyond their own example. They have totally laid in ashes a fine settlement called Schoarie which was capable

Gen$^{l}$ Washington says of yielding no less than 80,000 bushels of grain for public consumption. Such a loss is inestimable, and is the more to be regretted because, both local circumstances, and the energy of that Gov$^{t}$ left little doubt that it would have been applied to public use.

I fancy the taking of Quebec was a mere invention. Your letter gave me the first account of such a report. A different report concerning the 2$^{d}$ division of the French fleet has sprung up as you will see by the enclosed paper. It is believed here by many, and some attention given to it by all. It is also said that Rodney has sailed from N. York with 20 Ships for Europe. If he has sailed at all, & the first report be true also, it is more likely that he has gone out to meet the french.

The late exchange has liberated ab$^{t}$ 140 officers & all our privates at N. Y. amounting to 476. G. Washington has acceded to a proposal of a further exchange of the Convention officers without attaching any privates to them, which will liberate almost the whole residue of our officers at that place.

I am sir, etc.

## TO JOSEPH JONES.[1]

PHILADELPHIA, November 14, 1780.

DEAR SIR,—I do not learn that any of the States are particularly attentive to prevent the evils arising from certificates and emissions from their own

[1] From the Madison Papers (1840).

treasury, although they are unquestionably the bane of every salutary arrangement of the public finances. When the estimate for the ensuing year was on the anvil in Congress, I proposed a recommendation to the States to discontinue the use of them, and particularly in providing the specific articles required. It met, however, with so cool a reception, that I did not much urge it. The objection against it was, that the practice was manifestly repugnant to the spirit of the acts of Congress respecting finance; and if these were disregarded, no effect could be expected from any additional recommendations. The letters from General Washington and the Commissary General, for some time past, give a most alarming picture of the state and prospects of the magazines. Applications to the contiguous States on the subject, have been repeated from every quarter, till they seem to have lost all their force. Whether any degree of danger and necessity will rouse them to provide for the winter season now hastening upon us, I am unwilling to decide, because my fears dictate the worst. The inroads of the enemy on the frontier of New York have been most fatal to us in this respect. They have almost totally ruined that fine wheat country, which was able, and from the energy of their Government, was most likely, to supply magazines of flour, both to the main army and to the northwestern posts. The settlement of Schoharie, which alone was able to furnish, according to a letter from General Washington, eighty thousand bushels of grain for the public use, has been totally laid in ashes.

I make no apology for inaccuracies and bad writing, because you know the manner in which we are obliged to write for the post, and having been prevented by company from doing anything last night, I am particularly hurried this morning.

TO JOSEPH JONES.[1]

PHILADELPHIA, November 21, 1780.

DEAR SIR,—I am glad to find you have at last got a House of Delegates, and have made so auspicious a beginning, as an unanimous vote to fill up our line for the war. This is a measure which all the States ought to have begun with. I wish there may not be some that will not be prevailed on even to end with it. It is much to be regretted that you are not in a condition to discontinue another practice equally destructive with temporary enlistments. Unless an end can by some means or other be put to State emission and certificates, they must prove the bane of every salutary regulation. The depreciation in this place has lately run up as high as one hundred for one, and it cannot be satisfactorily accounted for, on any other principle than the substitution of certificates in the payment of those taxes which were intended to reduce its quantity and keep up a demand for it. The immediate cause of this event is said to have been the sudden conversion of a large quantity of paper into specie, by some tories lately

[1] From the Madison Papers (1840).

ordered into exile by this State. It is at present on the fall, and I am told the merchants have associated to bring it down and fix it at 75. The fate of the new money is as yet suspended. There is but too much reason, however, to fear that it will follow the fate of the old. According to the arrangement now in force, it would seem impossible for it to rise above one for forty. The resolutions of Congress which establish that relation between the two kinds of paper, must destroy the equality of the new with specie, unless the old can be kept down at forty for one. In New Jersey, I am told, the Legislature has lately empowered the Executive to regulate the exchange between the two papers, according to the exchange between the old and the new, in order to preserve the equality of the latter with specie. The issue of this experiment is of consequence, and may throw light perhaps on our paper finance. The only infallible remedy, whilst we cannot command specie, for the pecuniary embarrassments we labor under, will, after all, be found to be a punctual collection of the taxes required by Congress.

I hope you will not forget to call the attention of the Assembly, as early as the preparations for defence will admit, to the means of ratifying the Confederation, nor to remind it of the conditions which prudence requires should be annexed to any territorial cession that may be agreed on. I do not believe there is any serious design in Congress to gratify the avidity of land mongers, but the best security for their virtue, in this respect, will be to keep it out of

their power. They have been much infested, since you left us, with memorials from these people; who appear to be equally alarmed and perplexed. Mr. G. Morgan, as agent for the Indiana claimants, after memorializing Congress on the subject, has honored the Virginia delegates with a separate attention. He very modestly proposes to them a reference of the controversy between the company and Virginia to arbitration, in the mode pointed out in the Confederation for adjusting disputes between State and State. We have given him for answer, that as the State we represent had finally determined the question, we could not, with any propriety, attend to his proposition; observing at the same time, that if we were less precluded, we could not reconcile with the sovereignty and honor of the State an appeal from its own jurisdiction to a foreign tribunal, in a controversy with private individuals.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD$^{A}$, NOV$^{R}$ 21, 1789.

DEAR SIR—Your favor of the 13$^{th}$ came safe yesterday. The past week has brought forth very little of consequence, except the disagreeable and I fear certain information of the arrival of the Cape fleet. Our last account of the embarkation at N. York was that the Ships had fallen down to the Hook, that the number of troops was quite unknown, as well as their destination, except in general that it was Southwardly. It is still said that Philips is to command

this detachment. If the projected junction between Leslie & Cornwallis had not been so opportunely frustrated by the gallant volunteers at King's Mountain it is probable that Philips would have reinforced the former, as the great force in his rear would otherwise have rendered every advance hazardous. At present it seems more likely that the declining state of their Southern affairs will call their attention to that quarter. They can it is well known regain at any time their present footing in Virginia if it should be thought expedient to abandon it, or to collect in their forces to a defensible point. But every retrograde step they take towards Charleston proves fatal to their general plan. M. J. Adams in a letter of the 23$^{d}$ of Aug$^{st}$ from Amsterdam received yesterday, says that Gen. Prevost had sailed from England with a few frigates for Cape fear in order to facilitate the operations of their arms in N. Carolina, and that the Ministry were determined to make the Southern States the scene of a very active winter campaign. No intimation is given by Mr. Adams of the number of troops under Gen$^{l}$ Prevost. The 2$^{d}$ division of the French fleet mentioned in my last to have been off the Bermudas has not yet made its appearance. It is now rather supposed to have been a British one. The death of Gen$^{l}$ Woodford is announced in a N. York paper of the 17th. I have not seen the paper, but am told that no particulars are mentioned. I suppose it will reach his friends before this will be rec$^{d}$, through some other channel.

Adieu.

TO JOSEPH JONES.[1]

PHILADELPHIA, November 25, 1780.

DEAR SIR,—I informed you some time ago that the instructions to Mr. Jay had passed Congress in a form which was entirely to my mind. I since informed you that a committee was preparing a letter to him explanatory of the principles and objects of the instructions. This letter also passed in a form equally satisfactory. I did not suppose that any thing further would be done on the subject, at least till further intelligence should arrive from Mr. Jay. It now appears that I was mistaken. The Delegates from Georgia and South Carolina, apprehensive that a *uti possidetis* may be obtruded on the belligerent powers by the armed neutrality in Europe, and hoping that the accession of Spain to the alliance will give greater concert and success to the military operations that may be pursued for the recovery of their States, and likewise add weight to the means that may be used for obviating a *uti possidetis*, have moved for a reconsideration of the instructions in order to empower Mr. Jay, in case of necessity, to yield to the claims of Spain in consideration of her guaranteeing our independence, and affording us a handsome subsidy. The expediency of such a motion is further urged, from the dangerous negotiations now on foot, by British emissaries, for detaching Spain from the war. Wednesday last was assigned for the consideration of this motion,

[1] From the Madison Papers (1840).

and it has continued the order of the day ever since, without being taken up. What the fate of it will be I do not predict; but, whatever its own fate may be, it must do mischief in its operation. It will not probably be concealed that such a motion has been made and supported, and the weight which our demands would derive from unanimity and decision must be lost. I flatter myself, however, that Congress will see the impropriety of sacrificing the acknowledged limits and claims of any State, without the express concurrence of such State. Obstacles enough will be thrown in the way of peace, if it is to be bid for at the expense of particular members of the Union. The Eastern States must, on the first suggestion, take the alarm for their fisheries. If they will not support other States in their rights, they cannot expect to be supported themselves when theirs come into question.

In this important business, which so deeply affects the claims and interests of Virginia, and which I know she has so much at heart, I have not the satisfaction to harmonize in sentiment with my colleague.[1]

[1] Colonel Theoderick Bland. He and Madison were the only two delegates from Virginia then in attendance on Congress. Their differences on this subject culminated in the following request for instructions:

His Excellency Thomas Jefferson Esq^r^
Governor of Virginia

Philadelphia, December 13^th^ 1780.

Sir,—The complexion of the intelligence received of late from Spain, with the manner of thinking which begins to prevail in Congress with regard to the claims to the navigation of the Mississippi, makes it our duty to apply to our constituents for their precise, full and ultimate sense on this point. If Spain should make a relinquishment of the navigation of that river on the part of the United

He has embraced an opinion that we have no just claim to the subject in controversy between us and Spain, and that it is the interest of Virginia not to adhere to it. Under this impression, he drew up a letter to the Executive, to be communicated to the Legislature, stating in general the difficulty Congress might be under, and calling their attention to a revision of their instructions to their delegates on the subject. I was obliged to object to such a step, and, in order to prevent it, observed that the instructions

States an indispensable condition of an alliance with them, and the State of Virginia should adhere to their former determination to insist on the right of navigation, their delegates ought to be so instructed, not only for their own satisfaction, but that they may the more effectually obviate arguments drawn from a supposition that the change of circumstances, which has taken place since the former instructions were given, may have changed the opinion of Virginia with regard to the object of them. If, on the other side, any such change of opinion should have happened, and it is now the sense of the State that an alliance with Spain ought to be purchased even at the price of such a cession if it can not be obtained on better terms, it is evidently necessary that we should be authorized to concur in it.—It will also be expedient for the Legislature to instruct us in the most explicit terms whether any and what extent of territory on the East side of the Mississippi and within the limits of Virginia, is in any event to be yielded to Spain as the price of an alliance with her.—Lastly, it is our earnest wish to know what steps it is the pleasure of our Constituents we should take, in case we should be instructed in no event to concede the claims of Virginia either to territory or to the navigation of the above-mentioned river, and Congress should without their concurrence agree to such concession.

We have made use of the return of the Hon^ble^ W. Jones to N. Carolina to transmit this to your Excellency, and request that you will immediately communicate it to the General Assembly.

We have the honor to be, with the most perfect respect and esteem,

Y^r^ Excell^ys^ most ob^t^ & humble servants,

JAMES MADISON, Jun^r^
THEO^K^ BLAND

The foregoing is a true copy of a document communicated by Governor Jefferson to the General Assembly, and filed in my office.

W^M^ MUMFORD, Keeper of the Rolls.—*Mad. MSS.*

RICHMOND, Aug^t^ 31^st^ 1819

were given by the Legislature of Virginia on mature consideration of the case, and on a supposition that Spain would make the demands she has done; that no other event has occurred to change the mind of our constituents, but the armed neutrality in Europe, and the successes of the enemy to the southward, which are as well known to them as to ourselves; that we might every moment expect a third delegate here, who would either adjust or decide the difference in opinion between us, and that whatever went from the Delegation would then go in its proper form and have its proper effect; that if the instructions from Virginia were to be revised, and their ultimatum reduced, it could not be concealed in so populous an Assembly, and that every thing which our minister should be authorized to yield, would be insisted on; that Mr. Jay's last despatches encouraged us to expect that Spain would not be inflexible if we were so, that we might every day expect to have more satisfactory information from him; that finally if it should be thought expedient to listen to the pretensions of Spain, it would be best, before we took any decisive step in the matter, to take the counsel of those who best know the interests, and have the greatest influence on the opinions, of our constituents; that as you were both a member of Congress and of the Legislature, and were now with the latter, you would be an unexceptionable medium for effecting this, and that I would write to you for the purpose by the first safe conveyance.

These objections had not the weight with my

colleague which they had with me. He adhered to his first determination, and has, I believe, sent the letter above-mentioned by Mr. Walker, who will, I suppose, soon forward it to the Governor. You will readily conceive the embarrassments this affair must have cost me. All that I have to ask of you is, that if my refusing to concur with my colleague in recommending to the Legislature a revision of their instructions should be misconstrued by any, you will be so good as to place it in its true light; and if you agree with me as to the danger of giving express power to concede, or the inexpediency of conceding, that you will consult with gentlemen of the above description, and acquaint me with the result.

I need not observe to you that the alarms with respect to the inflexibility of Spain in her demands, the progress of British intrigues at Madrid, and the danger of the *uti possidetis*, may with no small probability be regarded as artifices for securing her object on the Mississippi. Mr. Adams, in a late letter from Amsterdam, a copy of which has been enclosed to the Governor, supposes that the pretended success of the British emissaries at Madrid is nothing but a ministerial finesse to facilitate the loans and keep up the spirits of the people.

This will be conveyed by Col. Grayson, who has promised to deliver it himself; or, if any thing unforeseen should prevent his going to Richmond, to put it into such hands as will equally ensure its safe delivery.

TO JOSEPH JONES.[1]

Philadelphia, November 28, 1780.

DEAR SIR,—Yours of the eighteenth came yesterday. I am glad to find the Legislature persist in their resolution to recruit their line of the army for the war; though without deciding on the expediency of the mode under their consideration, would it not be as well to liberate and make soldiers at once of the blacks themselves, as to make them instruments for enlisting white soldiers?[2] It would certainly be more conso-

[1] From the Madison Papers (1840).

[2] The scheme of a negro bounty was discussed on several occasions in the Virginia legislature, as Jones's letters show. "But my notion is," he says in the letter to which Madison alludes, "and I think the mode would be more just and equally certain in procuring the men, to throw the militia into divisions as by the last law, and require the divisions to find a negro of a certain value or age, or money equivalent to that value * * * But the negro bounty cannot fail to procure men for the war under either scheme, with the draught as the *dernier resort*." In reply to this letter of Madison's, Jones wrote Dec. 8: "The negro scheme is laid aside upon a doubt of its practicability in any reasonable time, and because it was generally considered as unjust, sacrificing the property of a part of the community to the exoneration of the rest. It was reprobated also as inhuman and cruel. How far your idea of raising black regiments, giving them freedom would be politic, in this and the negro States, deserves well to be considered, so long as the States mean to continue any part of that people in their present subjection; as it must be doubtful whether the measure would not ultimately tend to increase the army of the enemy as much or more than our own. For if they once see us disposed to arm the blacks for the field they will follow the example and not disdain to fight us in our own way, and this would bring on the southern States inevitable ruin. At least it would draw off immediately such a number of the best labourers for the culture of the earth as to ruin individuals, distress the State, and perhaps the Continent, when all that can be raised by their assistance is but barely sufficient to keep us jogging along with the great expence of the war. The freedom of these people is a great and desirable object. To have a clear view of it would be happy for Virginia; but whenever it is attempted, it must be, I conceive, by some gradual course, allowing time as they go off for labourers to take their places, or we shall suffer exceedingly under the sudden revolution which perhaps arming them would produce."—*Letters of Joseph Jones*, 48, 63, 64.

nant to the principles of liberty, which ought never to be lost sight of in a contest for liberty; and with white officers and a majority of white soldiers, no imaginable danger could be feared from themselves, as there certainly could be none from the effect of the example on those who should remain in bondage; experience having shewn that a freedman immediately loses all attachment and sympathy with his former fellow-slaves.

We have enclosed to the Governor a copy of an act of the Legislature of Connecticut, ceding some of their territorial claims to the United States, which he will doubtless communicate to the Assembly. They reserve the jurisdiction to themselves, and clog the cession with some other conditions which greatly depreciate it, and are the more extraordinary as their title to the land is so controvertible a one.

The association of the merchants for fixing the depreciation seems likely to prove a salutary measure; it reduced it from 90 and 100 to 75 at once, which is its present current rate; although it is observed that many of the retailers elude the force of it by raising the price in hard money.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD^A, Dec^r 5^th, 1780.

D^r S^r,—I have your favor of the 27th ult., and congratulate you on the deliverance of our Country from the distresses of actual invasion. The spirit it has shewn on this occasion will I hope in some degree protect it from a second visit.

Congress yesterday received letters from Mr. Jay & Mr. Carmichael as late as the 4 & 9th of Sep$^{r}$. The general tenor of them is that we are not to rely on much aid in the article of cash from Spain, her finances & credit being scarcely adequate to her own necessities, and that the B. emissaries are indefatigable in misrepresenting our affairs in that kingdom and in endeavoring to detach it from the war. The character however of the Catholic King for steadiness and probity, and the entire confidence of our allies in him, forbid any distrust on our part. Portugal on the pressing remonstrances of France & Spain has at length agreed to shut her ports ag$^{st}$ English prizes but still refuses to accede to the armed neutrality. Mr. Adams writes that the [news of the] fate of the Quebec and Jamaica fleets arrived in London nearly about the same time and had a very serious effect on all ranks as well as on stocks and insurance.

Our information from the W. Indies gives a melancholy picture of the effects of the late tempest. Martinique has suffered very considerably both in shipping & people. Not less than 600 houses have been destroyed in S$^{t}$ Vincents. The Spaniards in Cuba also have not escaped, and it is *reported* that their fleet on its way from the Havannah to Pensacola has been so disabled & dispersed as to defeat the expedition for the present. On the other side our Enemies have suffered severely. The Ajax a ship of the line and two frigates stationed off S$^{t}$ Lucie to intercept the Martinique trade are certainly lost with the greatest part, if not the whole, of their crews; and

there is great reason to believe that several other capital ships that have not been since heard of have shared the like fate. The Island of S^t^ Lucie is totally defaced. In Barbadoes also scarce a house remains entire and 1500 persons at least have perished. One of the largest towns in Jamaica has been totally swept away and the island otherwise much damaged. The consequences of this calamity must afford a striking proof to G. Britain of her folly in shutting our ports against her W. India commerce and transferring the advantage of our friendship to her Enemies.

I am, etc.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD^A^, Decem^r^, 1780.

DEAR SIR,—I had the pleasure of yours of the 2^d^ instant yesterday. We have not heard a word of the fleet which lately left the Chesapeake. There is little doubt that the whole of it has gone to the Southward.

Our intelligence from Europe confirms the accession of Portugal to the Neutral league; so far at least as to exclude the English from the privileges which their vessels of war have hitherto enjoyed in her ports. The Ariel commanded by P. Jones which had on board the cloathing &c., which has been long expected from France was dismasted a few days after she sailed and obliged to return into port; an event which must prolong the suffering which our army has been exposed to from the delay of this supply. Mr.

Sartine, the Minister of the French Marine has been lately removed from the administration of that departm^t. His successor is the Marquis de Castries, who is held out to us as a man of greater activity, & from whom we may hope for more effectual co-operation.

An Irish paper informs us that M^r Laurens was committed to the Tower on the 6^th of Oct^r by the three Secretaries of State on suspicion of high treason. As the warrant with the names of the Secretaries subscribed with some other particulars is inserted, no hope remains of the fact being a forgery.

With very sincere regard, I am, etc.

## TO JOSEPH JONES.[1]

PHILADELPHIA, December 5, 1780.

DEAR SIR,—I had yours of the twenty-fifth ultimo, by yesterday's post. I congratulate you on the deliverance of our country from the distresses of actual invasion. If any unusual forbearance has been shown by the British commanders, it has proceeded rather I presume, from a possibility that they may some time or other in the course of the war repossess what they have now abandoned, than from a real disposition to spare. The procedings of the enemy to the southward prove that no general change of system has taken place in their military policy.

We had letters yesterday from Mr. Jay and Mr. Carmichael as late as the fourth and ninth of September. Mr. Jay informs us that it is absolutely

[1] From the Madison Papers (1840).

necessary to cease drawing bills on him; that 150,000 dollars, to be repaid in three years, with some aid in clothing, &c., is all that the Court will advance for us. The general tenor of the letters is, that our affairs there make little progress, that the court is rather backward, that the navigation of the Mississippi is likely to prove a very serious difficulty; that Spain has herself been endeavouring to borrow a large sum in France on which she meant to issue a paper currency, that the terms and means used by her displeased Mr. Neckar, who in consequence threw such discouragements on it, as in turn were not very pleasing to the Spanish Minister; that Mr. Cumberland is still at Madrid laboring in concert with other secret emissaries of Britain to give unfavorable impressions of our affairs, that he is permitted to keep up a correspondence by his couriers with London, that if negotiations for peace should be instituted this winter, as Spain has not yet taken a decided part with regard to America, England will probably choose to make Madrid rather than Versailles the seat of it. However unfavorable many of these particulars may appear, it is the concurrent representation of the above ministers that our disappointment of pecuniary succor at Madrid is to be imputed to the want of ability and not of inclination to supply us, that the steadiness of His Catholic Majesty is entirely confided in by the French Ambassador, and that the mysterious conduct of Mr. Cumberland and of the Court of Spain towards him, seems to excite no uneasiness in the Ambassador. The letters add,

that, on the pressing remonstrances of France and Spain, Portugal had agreed to shut her ports against English prizes, but that she persisted in her refusal to accede to the armed neutrality.

The receipt of the foregoing intelligence has awakened the attention of the Georgia delegates to their motion, of which I informed you particularly by Col. Grayson. It has lain, ever since it was made, undisturbed on the table. This morning is assigned for the consideration of it, and I expect it will without fail be taken up. I do not believe Congress will adopt it without the express concurrence of all the States immediately interested. Both my principles and my instructions will determine me to oppose it. Virginia, and the United States in general, are too deeply interested in the subject of controversy to give it up, as long as there is a possibility of retaining it. And I have ever considered the mysterious and reserved behaviour of Spain, particularly her backwardness in the article of money, as intended to alarm us into concessions, rather than as the effect of a real indifference to our fate or to any alliance with us. I am very anxious, notwithstanding, to have an answer to my letter by Grayson.

## TO JOSEPH JONES.[1]

PHILADELPHIA, December 12, 1780.

DEAR SIR,—Agreeably to your favor of the second instant, which came to hand yesterday, I shall send

[1] From the Madison Papers (1840).

this to Fredericksburg. I am sorry that either your own health or that of your lady should oblige you to leave the Legislature before the principal business of the session is finished. I shall be more sorry, if either of these causes should disappoint my hopes of your return to Philadelphia at the promised time. I am the more anxious for your return, because I suppose it will supersede the proposed measure of sending an Envoy to Congress on the business you mention. If the facts are transmitted by the Speaker of the Assembly or the Executive, may they not be laid before Congress with as much efficacy by the established Representatives of the State as by a special messenger? And will not the latter mode in some measure imply a distrust in the former one, and lower us in the eyes of Congress and the public? The application to the Court of France has been anticipated. Congress have even gone so far as to appoint an Envoy Extraordinary to solicit the necessary aids. Colonel Laurens was invested yesterday with that office. I leave the measure to your own reflection. How far it may be expedient to urge Spain to assist us, before she is convinced of the reasonableness of our pretensions, ought to be well weighed before it be tried. The liberty we took in drawing on her for money, excited no small astonishment, and probably gave an idea of our distress, which confirmed her hopes of concession on our part. Accounts received since my last, repeat her inflexibility with regard to the object[1] in question between us. It is indispens-

[1] The free navigation of the Mississippi.

able that we should in some way or other know the *ultimate* sense of our constituents on this important matter.

Mr. Laurens is certainly in captivity. An Irish paper tells us he was committed to the Tower on the sixth of October, under a warrant from the three Secretaries of State. Portugal has acceded to the neutral league so far as to exclude the English from the privileges her armed vessels have hitherto enjoyed in her ports. The Ariel, with Paul Jones, and the clothing &c., on board, was dismasted a day or two after she sailed, and obliged to put back into port. If General Washington detaches no further aid to the southward, it will be owing to the reduction of his force by the expiration of enlistments. The Pennsylvania line is mostly engaged for the war, and will soon form almost the whole of the army under his immediate command.

Mr. Sartine, it seems, has been lately removed from the administration of the Naval Department, in consequence of his disappointing the general hopes formed from the great means put into his hands. When it was mentioned to me by Mr. Marbois, I took occasion to ask whether the deception with regard to the second division ought to be ultimately charged upon him, observing to him the use the enemies of the alliance had made of that circumstance. From the explanation that was given, I believe, the blame rests upon his head, and that his removal was the effect of it in a great measure; though it is possible, he may, like many others, have been sacrificed

to ideas of policy, and particularly in order to cancel the unfavorable impression which the disappointment left on America. A high character is given, as might be expected, of his successor, the Marquis de Castries, particularly with respect to those qualities in which Mr. Sartine is charged with having been most deficient.

## TO JOSEPH JONES.[1]

PHILADELPHIA, December 19, 1780.

DEAR SIR,—Yours of the eighth instant came to hand yesterday. I was sorry to find the Assembly had not then taken up the recommendation of Congress on the subject of the western lands. Its being postponed so late will, I fear, prevent the result of their deliberations from being communicated to Maryland before the rising of their Legislature; in which case much time must be lost, unless their Delegates be authorized to accede to the Confederation, on a cession satisfactory to themselves,—a liberality of proceeding hardly to be expected from that State, after the jealousy and reserve it has shown. I am no less sorry to find so little progress made in the plan for levying soldiers. The regular force for the southern department must be principally, it seems, contributed by Virginia, the North Carolina Assembly having broken up without making any effectual provision of that sort. One would have supposed that the fatiguing service exacted of the militia in that

[1] From the Madison Papers (1840).

State, would have greatly facilitated such a measure, and yet that is assigned as the obstacle to its practicability.

I wish anxiously to hear from you on the subject stated in my letter by Grayson, and in my subsequent one by the post. Circumstances which I do not choose unnecessarily to hazard by the post, have made it expedient to lay the matter before the Assembly, that their former instructions may not be invalidated by a supposed effect of a change of situation, or may be rescinded if real. This went by W. Jones, Esquire, on his return to North Carolina, who, I suppose, will not be at Richmond till nearly Christmas. I wish it could have reached the Assembly before your leaving it.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD$^{A}$ Dec$^{r}$ 19, 1780.

DEAR SIR,—You preserve your character for punctuality so well that I always have the pleasure to begin with acknowledging the receipt of a favor from you. That of the 11 instant came to hand yesterday. As the sufferings of your Militia are ascribed to the conduct of their commanding officer, I hope the disgust will be only local. A general disgust would be a very serious misfortune.

We are informed from good authority that an embarkation is taking place at N. York. From the number of Regiments & corps mentioned, it probably consists of about 4000 troops. Knyphausen & Philips

it is said are to have the command of them. Their course will without doubt be directed to the Southern States.

We have a probable story from the Southward, corroborated by a paper from N. York, that Tarlton has had an encounter with Sumpter, in which he lost upwards of 100 men including the wounded & received a mortal wound himself. Sumpter is said also to have been wounded but slightly and to have lost one man only. The personal wound of Tarlton is omitted in the N. Y. Paper, but his loss otherwise is represented as greater than our own account makes it.

I am D^r^ S^r^ Y^rs^ sincerely.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD^A^, Dec^r^ 26. 1780.

DEAR SIR,—I have your favor of the 18^th^ inst: inclosing another relating to Capt: C. Taylor with a certificate of his situation, to which I shall pay the necessary attention but cannot undertake to predict certain success.

The Danish Declaration with the step taken in consequence by the C^t^ of London mentioned in the inclosed are the chief news of this week. There is a *report* that Arnold is gone up the sound with 4000 troops towards N. London. Wishing you the compliments of the season

I am D^r^ S^r^ yours sincerely

TO EDMUND PENDLETON. MAD. MSS.

PHILAD^A, Jany 2^d 1781.

DEAR SIR,—Yesterday's post was the first that has failed to bring me a line from you since our correspondence commenced. I hope it has not been owing to any cause which concerns your health.

We had it yesterday from under Gen^l Washingtons hand that another embarkation is actually departed from N. York, among [torn] to ab^t 2500 troops. There is little & [torn] that they will steer the same course with the preceding detachment. Congress are under great anxiety for the States ag^st which this accommodating force is to be directed, and the more so as the principal means of their defence is so little in their power. It is not so much the want of men as the want of subsistence arms & clothing, which results from the want of money that gives the greatest alarm. A disposition appears to do every thing practicable for their relief and defence.

M^r Harrison writes from Cadiz that the combined fleets in that port, including 18 ships from the W. Indies under Guichen amounted to 68 Ships of the line. He offers no conjecture as to the manner in which they will be employed.

I am D^r Sir Y^rs sincerely

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TO AMBROSE MADISON. MAD. MSS.

PHILAD^A Jan^y 2, 1781.

DEAR BROTHER,—I rec^d yesterday yours of the 19 & my father's of the 20 Dec^r I am glad to hear of

your recovery, and particularly so of my mother's whose attack was unknown to me till the receipt of my father's letter.

The inclosed papers will give you the late proceedings of Cong[s] more fully tho' often very incorrectly, than could be done in a letter. The excise on spirits distilled in the Country will probably take place. In fact, considering the aversion to direct taxes & that the imports are already loaded, I see nothing else that can be done. Besides the duty on imported rum, requires a proportional one on Country rum, & this a duty on other spirits. The tax will I presume be so guarded as to operate on stills according to the quantity really distilled.

I have rec[d] a letter from M[r] Maury which says that the market of Europe is very full of Tob[o] & recommends it to me to [save ?] as much as possible.

On leaving home I desired my father to pay Maj[r] Lee the sum due from me. I sh[d] have left the comission in your hands if you had been in the way, being apprehensive that some delicacy might arise from unsettled transactions between him & my father. I find accordingly that this has happened & that Maj[r] Lee refuses the paym[t] on y[r] account. I wish you to pay him if possible as I intended & promised.

Tell Capt: Dade that Gen. Knox has not yet reported on his case & that I will let him know the event of his claim as soon as it happens. Adieu.

Y[rs] aff[y]

TO EDMUND PENDLETON.[1]

PHILADELPHIA, January 9th, 1781.

DEAR SIR,—I have again the pleasure to begin with acknowledging the receipt of a favor from you, that of the first having come to hand yesterday.

On Thursday last, Congress was informed by General Potts and Colonel Johnston, who came expresses for the purpose, that a general mutiny had broken out on the morning of the New Year's day, in the Pennsylvania line, which was cantoned near Morristown, apart from the rest of the army. Every effort was made by the officers to stifle it in its infancy, but without effect. Several of them fell victims to the fury of the mutineers. The next information came from General Wayne, who wrote from Princeton, whither the troops had marched in regular order on their way to Philadelphia, as they gave out, with a determination not to lay down their arms, nor to return to their obedience till a redress of grievances should be obtained. They suffered none of their officers to be among them except General Wayne and Colonels Steuart and Butler, and these they kept under close guard, but in every other respect treated with the utmost decorum. The grievances complained of were principally, the detention of many in service beyond the term of enlistment, and the sufferings of all from a deficient supply of clothing and subsistence, and the long arrearage of pay. Several propositions and replies, on the subject of redress,

[1] From the Madison Papers (1840).

passed between a deputation of sergeants, in behalf of the troops, and General Wayne, but without any certain tendency to a favorable issue. The affair at length began to take a very serious countenance, and as a great proportion of that line are foreigners, and not a few deserters from the British army, and as they showed a disposition to continue at Princeton, from whence a refuge with the enemy, who, it was said, were coming out in force for the purpose, was at any moment practicable, it was thought necessary, notwithstanding the humiliation of the step, to depute a committee of Congress with powers to employ every expedient for putting a speedy end to the discontents. The President of the State, with a number of gentlemen from this place, went up to interpose their influence. By a letter from the committee, who had proceeded as far as Trenton, received the evening before last, it appears that the President, who was ahead, and had written to General Wayne, was likely to have a confidential reception. The committee write, that an emissary of Clinton, who had appeared among the soldiers with a paper setting forth the folly and danger of adhering to a cause which had already brought so much misery upon them, promising a protection under the British Government, a body of troops to cover their escape, and the payment of all arrears due from Congress, was seized and given up to General Wayne, who handed him with his guide over to the President of this State; who placed them under the custody of his light-horse. This circumstance not only presages a fortunate issue

to the mutiny, but is such a proof of attachment to the country in the most trying situation, as must effectually repress the joy and encouragement which the enemy had taken from this threatening event. The late detachment from New York, which a letter from Fredericksburg says is in the Chesapeake, is about one thousand six hundred strong, and commanded by Arnold.

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, January 16, 1781.

DEAR SIR,—I was very glad at not being disappointed in my expectation of a favor from you by yesterday's post. Several reports, in quick succession, of the arrival and progress of the predatory band under Arnold, had rendered us exceedingly anxious to hear the truth and particulars of the matter. Some letters, by the post, tell us that the Governor and Baron Steuben were wholly engaged in removing and securing the arms and ammunition. If so, he was better employed than in writing to Congress on the subject, which, from his usual punctuality, was expected. The enterprise against Richmond, at this season, was certainly an audacious one, and strongly marks the character which directed it. Having been long sensible that the security of the country, as high up as the tide-water reaches, has been owing more to the ignorance and caution of the enemy than to its own strength or inaccessibleness, I was much less astonished at the news than many

[1] From the Madison Papers (1840).

others. To those who are strangers to the sparse manner in which that country is settled, and the easy penetration afforded by its long, navigable rivers, the rapid and unopposed advances of the enemy appear unaccountable, and our national character suffers imputations which are by no means due to it.

Congress have yet received no official report of the result of the conciliatory measures taken with the revolted soldiers at Trenton. From oral and circumstantial evidence, there is no doubt that they have been successful. A discharge of a part from the service, and a supply of clothing and money to the rest, is the price of their submission. This much, considered in itself, was required by justice, and is, consequently, consistent with dignity. But, considered with respect to the circumstances attending the negotiation, there is but too much ground to suspect that it will be attributed to our fears, and is, therefore, not a little mortifying. Happily, the example, as we understand by a letter from General Washington received yesterday, had not infected the other parts of the army. As the same causes, however, which engendered this malignant humour in the Pennsylvania line, are known to exist in the other lines, we cannot be sure that the same effects will not yet take place in the latter, unless they be speedily removed. As one step towards it, Congress are endeavouring to profit by the alarm which this event must have excited in the States, by calling upon them for the means of immediately furnishing some pay to the troops of their respective lines.

You ask me what I think of the Delegate Extraordinary to Congress.[1] I wish you had told me what you think of such an appointment. It is pretty certain, I believe, that people in general will not consider it as a proof of confidence in the ordinary delegation. As Mr. Jones, who, I believe, possesses the confidence of his country, and, I am sure, will have as much weight in Congress as any man that will be sent on such an occasion, will come about the same time, and, having attended the Legislature, will be as well informed in every point of view, I cannot deny that the appointment appears to me to be, at least, a supernumerary one. I wish the good effects of it may show that I am mistaken.

The trade of this city has just suffered a very severe blow. No less than seven fine vessels have been taken out of an outward bound fleet, and carried into New York.

The emissary from Clinton, and his guide, were executed on Saturday morning last.

[1] The father of the proposition to send such a delegate was Patrick Henry. There was a ballot for the delegate and the House evenly divided between the Speaker, Benjamin Harrison, and R. H. Lee. The casting vote being with the Speaker, who could not vote for himself, an embarrassing situation was presented, which Lee relieved by withdrawing from the contest, "so that Harrison stood elected. Braxton says the old fellow was so disgusted with the vote that he believed he would resign the appointment." Jones to Madison, January 2, 1781, *Letters of Joseph Jones*, 65, 66. The object of the appointment was "to lay before Congress a clear state of the war in this quarter, the resources of this State in men, money, provisions," etc., and to concert measures "necessary in the present conjuncture of affairs in the South."—*Journal of House of Delegates*, 35; Rives, i., 269, 270.

TO EDMUND PENDLETON. MAD. MSS.

PHILAD^A^, Jan^y^ 23, 1781.

DEAR SIR,—I have nothing new this week for you but two *reports*: the first is that very great discontents prevail in N. York among the German Troops for causes pretty similar to those which produced the eruption in the Pennsylvania line. It is further said on this head that a party of 200 have deserted from Long Island & gone to Rhode Island. The other report is that the British minister either has or proposes to carry a bill into Parliam^t^ authorizing the Commanding officer in America to permit & promote a trade with us in British Goods of every kind except Linens & Woollens. This change of system is said to be the advice of some notable refugees, with a view to revive an intercourse as far as possible between the two countries, & particularly to check the habit that is taking place in the consumption of French Manufactures. Whatever their public views may be it is certain that such a plan would open fine prospects to them in a private view.

We have rec^d^ no fresh or certain information of the designs of F. and Spain in assembling so great a force at Cadiz. There does not appear to be any object in that Quarter except Gibraltar. Should the attempts be renewed ag^st^ that place, it will prove that the former has not that absolute sway in the Cabinet of the latter which has been generally imagined. Nothing would have prevailed on the French to recall their fleets from the Islands at the time they did but the necessity of humouring Spain on the subject of her hobby horse.

I am glad to hear that Arnold has been at last fired at. It sounded a little unfavorably for us in the ears of the people here that he was likely to get off without that proof of a hostile reception. If he ventures an irruption in any other quarter I hope he will be made sensible that his impunity on James River was owing to the suddenness of his appearance & not to the want of spirit in the people. I am, etc.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD$^{A}$, Feb$^{y}$, 1781.

D$^{R}$ SIR,—I have your favor of the 5$^{th}$ instant by the post. Col. Harrison arrived here yesterday, and as he mentions no circumstance which indicated an intended departure of the Enemy I am afraid your intelligence on that subject was not well founded. Immediately on the receipt of your former letter relating to an exchange of C. Taylor I applied to the Admiralty department, and if such a step can be brought about with propriety, I hope he will be gratified, but considering the tenor of their treatment of naval prisoners, and the resolutions with which it has inspired Congress, I do not think it probable that exchanges will go on easily, and if this were less the case, a mere passenger, under the indulgence too of a parole, can scarcely hope to be preferred to such as are suffering the utmost hardships and even made prisoners in public service.

A vessel arrived here a few days ago from Cadiz which brings letters of as late date as the last of Dec$^{r}$ Those that are official tell us that England is making

the most strenuous exertions for the current year, & that she is likely to be but too successful in the great article of money. The Parliament have voted 32,000 seamen, and a considerable land reinforcement for their Southern army in America is s.d to be in preparation. Private letters by the same conveyance mention that the blockage of Gibraltar is going on with alacrity, and that the garrison is in such distress as flatters the hope of a speedy capitulation.

If Mr. Pendleton your nephew is still with you be pleased to return him my compliments.

With great respect I am, etc.

## TO THOMAS JEFFERSON.[1]

PHILADELPHIA, April 3rd, 1781.

DEAR SIR,—The letter from the Delegation, by the last post, informed you of the arrival of the stores here, which were to have been delivered in Virginia by one of the French ships. The infinite importance of them to the State, especially since the arrival of a reinforcement to Arnold,[2] of which we are just apprized by the Marquis, has determined the Delegates to forward them by land, without loss of time. This will be attempted in the first instance, in the

[1] From the Madison Papers (1840).

[2] The sufferings in Virginia from the invasion of the enemy called forth the following peculiar proposition from George Mason. It was addressed to the Virginia delegates in Congress :

VIRGINIA, GUNSTON-HALL, April 3d, 1781.

GENTLEMEN,—

. . . . . .

Whoever considers the Importance of the Trade of these States to Great Britain, and her Expectations of great part of it returning into British Chan-

channel of the Quartermaster's department, and, if it cannot be effected in that mode, without delay, we propose to engage private wagons for the purpose, on the credit of the State. Should the latter alternative be embraced, I find it will be necessary to stipulate instantaneous payment, from the Treasury, on the arrival of the wagons at Richmond, in specie or *old continental currency* to the *real* amount thereof. I mention this circumstance that you may be prepared for it. The expense of the transportation will be between five and six hundred pounds, Virginia money. The exchange between specie and the old paper, at present, is about one hundred and thirty-five for one.

The Delegates having understood that the refugees taken by Captain Tilley, on his return to Newport from the Chesapeake, consisted chiefly of persons who formerly lived in Virginia, some of whom were traitors who deserved exemplary punishment, and others vindictive enemies to the State, thought pro-

nels, upon a peace, may readily conceive that She will be alarmed at any Measures which may affect it hereafter, by imposing such Burdens upon it, as will give a lasting Preference to other Nations. If therefore Congress were to recommend to the Legislatures of the different States immediately to enact Laws, declaring that all private property, which hath been, or shall be plundered or destroyed, by the British Troops, or others acting under the authority of the King of Great Britain, beyond high water mark, from a certain Day, shall be hereafter reimbursed & made good to the individual Sufferers, & their Heirs, by Dutys to be imposed upon all Imports from Great Britain into the respective States, after a peace, and to be continued until full Reparation shall be accordingly made ; and for this purpose, directing Valuations, upon oath, to be made of all private property so plundered or destroyed, to be returned, with the names & places of abode of the owners, to some certain public office within each State, & there duly registered, it is more than probable it wou'd produce good effects.—*Mad. MSS.*

per to make the inclosed application to the French Minister. By conversation I have since had with him on the subject, I doubt whether it will be deemed consistent with their general rules of conduct, to give up, to be punished as malefactors, any of the captives made by their fleet, which does not serve, like their land army, as an auxiliary to the forces of the United States. If these persons had been taken by their land forces, which serve as auxiliaries under the Commander-in-Chief, it seems there would have been no difficulty in the case. However, the application will certainly prevent the exchange or release to which it refers, if the Executive think it expedient to do so. On the least intimation, I am persuaded the apostates would be even sent over to France, and secured in the most effectual manner during the war. Perhaps this would not be amiss, as being not our prisoners, no use can be made of them in redeeming our citizens from captivity.

## TO THOMAS JEFFERSON.[1]

PHILADELPHIA, April 16, 1781.

DEAR SIR,—The inclosed paper is a copy of a report,[2] from a committee, now lying on the table of Con-

[1] From the Madison Papers (1840).

[2] "Whereas it is stipulated and declared in the 13th Article of the Confederation, 'that every State shall abide by the determinations of the United States in Congress assembled, on all questions which by this Confederation are submitted to them: And that the Articles of this Confederation shall be inviolably observed by every State;' by which Article a general and implied power is vested in the United States in Congress assembled, to enforce and carry into effect all the Articles of the said Confederation against any of the States which shall refuse or neglect to abide by such their determinations, or shall

gress for consideration. The delicacy and importance of the subject makes me wish for your judgment on it, before it undergoes the final decision of Congress.

The necessity of arming Congress with coercive powers arises from the shameful deficiency of some of the States which are most capable of yielding their apportioned supplies, and the military exactions to which others, already exhausted by the enemy and our own troops, are in consequence exposed. Without such powers, too, in the General Government, the whole confederacy may be insulted, and the most salutary measures frustrated, by the most inconsiderable State in the Union. At a time when all the other States were submitting to the loss and inconvenience of an embargo on their exports, Delaware absolutely declined coming into the measure, and not only defeated the general object of it, but enriched herself at the expense of those who did their duty.

The expediency, however, of making the proposed

otherwise violate any of the articles; but no determinate and particular provision is made for that purpose: And whereas the want of such provision may be a pretext to call into question the legality of such measures as may be necessary for preserving the authority of the Confederation, and for doing justice to the States which shall duly fulfil their federal engagements; and it is, moreover, most consonant to the spirit of a free Constitution, that, on the one hand, all exercise of power should be explicitly and precisely warranted, and, on the other, that the penal consequences of a violation of duty should be clearly promulged and understood: And whereas it is further declared by the said 13th Article of the Confederation, that no addition shall be made to the articles thereof, unless the same shall be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State: The United States in Congress assembled, having seriously and maturely deliberated on these considerations, and being desirous as far as possible to cement and invigorate the Federal Union, that it may be both established on the most immutable basis, and be the more effectual for securing the immediate object of it, do hereby agree and recommend to the Legislatures of every State, to confirm and to

application to the States, will depend on the probability of their complying with it. If they should refuse, Congress will be in a worse situation than at present; for as the Confederation now stands, and according to the nature even of alliances much less intimate, there is an implied right of coercion against the delinquent party, and the exercise of it by Congress, whenever a palpable necessity occurs, will probably be acquiesced in.

It may be asked, perhaps, by what means Congress could exercise such a power, if the States were to invest them with it. As long as there is a regular army on foot, a small detachment from it, acting under civil authority, would at any time render a voluntary contribution of supplies due from a State, an eligible alternative. But there is a still more easy and efficacious mode. The situation of most of the States is such, that two or three vessels of force

authorize their Delegates in Congress to subscribe the following clause as an additional article to the thirteen Articles of Confederation and perpetual union:

It is understood and hereby declared, that in case any one or more of the confederated States shall refuse or neglect to abide by the determinations of the United States in Congress assembled, and to observe all the Articles of Confederation as required by the 13th Article, the said United States in Congress assembled, are fully authorized to employ the force of the United States, as well by sea as by land, to compel such State or States to fulfil their federal engagements; and particularly to make distraint on any of the effects, vessels, and merchandizes of such State or States, or of any of the citizens thereof, wherever found, and to prohibit and prevent their trade and intercourse as well with any other of the United States and the citizens thereof, as with any foreign State, and as well by land as by sea, until full compensation or compliance be obtained with respect to all requisitions made by the United States in Congress assembled, in pursuance of the Articles of Confederation.

And it is understood, and is hereby agreed, that this article shall be binding on all States not actually in possession of the enemy, as soon as the same shall be acceded to and duly ratified by each of the said States."

employed against their trade will make it their interest to yield prompt obedience to all just requisitions on them. With respect to those States that have little or no foreign trade of their own, it is provided that all inland trade with such States as supply them with foreign merchandize may be interdicted, and the concurrence of the latter may be enforced, in case of refusal, by operations on their foreign trade.

There is a collateral reason which interests the States who are feeble in maritime resources, in such a plan. If a naval armament was considered as the proper instrument of general government, it would be, both preserved in a respectable state in time of peace, and it would be an object to man it with citizens, taken in due proportions, from every State. A navy so formed, and under the orders of the General Council of the State, would not only be a guard against aggressions and insults from abroad, but, without it, what is to protect the Southern States, for many years to come, against the insults and aggressions of their northern brethren?

## TO EDMUND RANDOLPH.[1]

*(Extract.)*

PHILADELPHIA, May 1, 1781.

DEAR SIR,—A letter which I received a few days ago from Mr. Jefferson gives me a hope that he will lend his succor in defending the title of Virginia. He professes ignorance of the ground on which the

[1] From Madison's Works.

report of the committee places the controversy. I have exhorted him not to drop his purpose, and referred him to you as a source of copious information on the subject. I wish much you and he could unite your ideas on it. Since you left us I have picked up several pamphlets which had escaped our researches. Among them are the examination of the Connecticut claim, and the charter of Georgia, bound up with that of Maryland and four others. Presuming that a better use will be made of them, I will send them by Mr. Jones, requesting, however, that they may be returned by the hands of him, Dr. Lee, or yourself, as the case may be.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, May 1, 1781.

DEAR SIR,—The case of the vessel captured within North Carolina was some time since remitted to Congress by Governor Harrison. I am glad to find your ideas correspond so exactly with those I had advanced on the subject. The legislative power over captures, and the judiciary in the last resort, are clearly vested in Congress by the Confederation. But the judiciary power in the first instance, not being delegated, is as clearly reserved to the Admiralty Courts of the particular States within which the captures are made. Captures made on the high seas must fall within the jurisdiction of the State into which it shall please the captor to carry them. It will be sufficient, I believe, to insert in the instructions to privateers, a clause for

[1] From the Madison Papers (1840).

preventing the grievance complained of by North Carolina. The anger of Mr. Burke was erroneous in its principle, as well as intemperate in its degree. The offender being an officer of Congress, and not of Virginia, Congress, and not Virginia, should have been resorted to for redress.

On a consultation before Doctor Lee left us, it was determined that we ought to renew our attempts to obtain from Congress a decision on the cession of Virginia, before the meeting of the Legislature. The attempt was accordingly made, and produced all the perplexing and dilatory objections which its adversaries could devise. An indisposition of the President, which suspended the vote of Maryland, furnished an argument for postponing, which it was prudent to yield to, but which is now removed by the arrival of Mr. Wright, a new Delegate from that State. We shall call again on Congress for a simple answer in the affirmative or the negative, without going into any unnecessary discussions on the point of right; and should the decision be postponed *sine die*, we hope the State will consider itself at liberty to take any course which its interest shall suggest. It happens very unluckily that Virginia will only have two Representatives present during the interesting business. Mr. Jones cannot be prevailed on to wait the event. Colonel Bland thinks the validity of charters unimportant to the title of Virginia, and that the title of the natives militates against the claims of the companies. Is not my situation an enviable one?

[1] Also a delegate from Maryland.

A further communication from the French Minister informs us, that the Court of France laments the weakness of our army; insinuates the idea of co-operation in expelling the enemy from the United States; apprehends attempts to seduce the States into separate negotiations, and hopes measures will be taken to frustrate such views. I believe, from this and other circumstances, that the Court of France begins to have serious suspicions of some latent danger. It is extremely probable, that as the enemy relax in their military exertions against this country, they will redouble the means of seduction and division. This consideration is an additional argument in favor of a full representation of the States. In a multitude of counsellors there is the best chance for honesty, if not of wisdom.

The subject of Vermont has not yet been called up. Their agents and those of the land-mongers are playing with great adroitness into each others' hands. Mr. Jones will explain this game to you. Colonel Bland is still schismatical on this point. I flatter myself, however, that he will so far respect the united opinion of his brethren as to be silent. Mr. Lee entered fully into the policy of keeping the vote of Vermont out of Congress.

The refugees from New York have lately perpetrated one of the most daring and flagrant acts that has occurred in the course of the war. A captain of militia of New Jersey, who unfortunately fell a captive into their hands, was carried to New York, confined successively in different prisons, and treated

with every mark of insult and cruelty; and finally brought over to the Jerseys, and in cold blood hanged. A label was left on his breast, charging him with having murdered one of their fraternity, and denouncing a like fate to others. The charge has been disproved by unexceptionable testimony. A number of respectable people of New Jersey have, by a memorial, called aloud on the Commander-in-Chief for retaliation; in consequence of which he has, in the most decisive terms, claimed of Sir Henry Clinton a delivery of the offenders up to justice, as the only means of averting the stroke of vengeance from the innocent head of a captive officer of equal rank to the Jersey captain. The answer of Clinton was not received when General Washington despatched a state of the transaction to Congress.

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, May 29, 1781.

DEAR SIR,—The two circumstances relating to the proposed duty on trade, mentioned in your favor of the first instant, were subjects of discussion when the measure was on the anvil. It was evident that the disposition of the States to invest Congress with such a power would be influenced by the length of the term assigned for the exercise of it. It was equally evident that no provision would satisfy the present creditors of the United States, or obtain future loans, that was not commensurate to all the public engagements. In order to reconcile these

[1] From the Madison Papers (1840).

points, the duration of the impost was limited, but limited in so indefinite a manner as not to defeat the object of it. Should the increase of trade render the duty more productive than was estimated, it must the sooner extinguish the public debts, and cease. The application of Congress for such a power supposes, indeed, a confidence in them, on the part of the States, greater perhaps than many may think consistent with republican jealousy; but if the States will not enable their Representatives to fulfil their engagements, it is not to be expected that individuals either in Europe or America will confide in them. The second objection you mention was also a subject of much discussion in Congress. On one side it was contended that the powers incident to the collection of a duty on trade were in their nature so municipal, and in their operation so irritative, that it was improbable that the States could be prevailed on to part with them; and that, consequently, it would be most prudent to ask from the States nothing more than the duty itself, to be collected by State officers, and paid to a Continental Receiver; and not the right of collecting it by officers of Congress. On the opposite side it was urged, that as Congress would be held responsible for the public debts, it was necessary, and would be expected, that the fund granted for discharging them should be exclusively and independently in their hands; that if the collectors were under the control of the States, the urgency of their wants would be constantly diverting the revenue from its proper

destination; that if the States were willing to give up the thing itself, it was not likely they would cavil at any form that would be most effectual; that the term proposed might be reconciled with their internal jurisdictions, by annexing to the *office* of collector all the powers incident thereto, and leaving to Congress the right of appointing the *officer*. How far it may be best to appoint the established naval officer, I am not prepared to say; but should that be found to be the case, they will exercise their new functions, not as naval officers of the State, but as invested with a separate commission by Congress, in such manner that in the former respect they are wholly exempt from the jurisdiction of Congress, and in the latter from that of the State. Such a junction of powers, derived from different sources, in the same person, certainly has its inconveniences, but there will be many instances of it in our complex government. I have met with so many interruptions this morning, that I fear I may have not done justice to the subject in my explanation of it. Another consequence is, that I must be very brief on the head of intelligence to make sure of the post.

## TO PHILIP MAZZEI.[1]

PHILADELPHIA, July 7, 1781.[2]

MY DEAR FRIEND,—I have received two copies of your favor of the 7th of December last, and three

[1] From Madison's Works.

[2] Mazzei was an Italian who had come to Virginia to introduce the planting of olives and grapes. He was an ardent revolutionist at this time and held a

of that of the 30th of November preceding. Having neglected to bring with me from Virginia the cypher concerted between you and the Executive, I still remain ignorant of the paragraph in your last which I suppose the best worth knowing.

The state of our affairs has undergone so many vicissitudes since you embarked for Europe, and I can so little judge how far you may have had intelligence of them, that I am at a loss where I ought to begin my narrative. As the present posture of them is the most interesting, I shall aim at nothing further at present than to give you some idea of that, referring to past events so far only as may be necessary to explain it.

The insuperable difficulties which opposed a general conquest of America seemed as early as the year 1779 to have been felt by the enemy, and to have led them into the scheme of directing their operations and views against the Southern States only. Clinton accordingly removed with the principal part of his force from New York to South Carolina, and

commission from Virginia to purchase supplies for the army. He had a scheme for borrowing money in Italy, but insisted that the purchases should be made where it might be borrowed. Before leaving America he wrote to Madison from Hob's Hole, Va., June 13, 1779:

"I have put my papers with a 4 pound ball in a bag to be thrown overboard, if prudence should require it. . . . However well disposed the Gran-Duke, or the Genose, might be to lend us money, I am confident that as soon as they know that part of it is to be drawn in favour of another part of Europe to pay for things, which could have been bought in this country, they would withdraw highly, & in my opinion justly, disgusted. . . . The late Governor, M[r] Page, & you agreed in January last, that, in good feeling as well as gratitude, as much money as it was necessary to employ in goods, was to be layed out in the Country of the Lender, or Lenders."—MAD. MSS.

laid siege to Charleston, which, after an honorable resistance, was compelled to surrender to a superiority of force. Our loss in men, besides the inhabitants of the town, was not less than two thousand. Clinton returned to New York. Cornwallis was left with about five thousand troops to pursue his conquests. General Gates was appointed to the command of the Southern department, in place of Lincoln, who commanded in Charleston at the time of its capitulation. He met Cornwallis on the 16th of August, 1780, near Camden, in the upper part of South Carolina and on the border of North Carolina. A general action ensued, in which the American troops were defeated with considerable loss, though not without making the enemy pay a good price for their victory. Cornwallis continued his progress into North Carolina, but afterwards retreated to Camden. The defeat of Gates was followed by so general a clamor against him, that it was judged expedient to recall him. Greene was sent to succeed in command. About the time of his arrival at the army, Cornwallis, having been reinforced from New York, resumed his enterprise into North Carolina. A detachment of his best troops was totally defeated by Morgan with an inferior number, and consisting of a major part of militia detached from Greene's army. Five hundred were made prisoners, between two and three hundred killed and wounded, and about the like number escaped. This disaster, instead of checking the ardor of Cornwallis, afforded a new incentive to a rapid advance, in the hope of recovering his pris-

oners. The vigilance and activity, however, of Morgan, secured them. Cornwallis continued his pursuit as far as the Dan river, which divides North Carolina from Virginia. Greene, whose inferior force obliged him to recede this far before the enemy, received such succors of militia on his entering Virginia that the chase was reversed. Cornwallis, in his turn, retreated precipitately. Greene overtook him on his way to Wilmington, and attacked him. Although the ground was lost on our side, the British army was so much weakened by the loss of five or six hundred of their best troops, that their retreat towards Wilmington suffered little interruption. Greene pursued as long as any chance of reaching his prey remained, and then, leaving Cornwallis on his left, took an oblique direction towards Camden, which, with all the other posts in South Carolina except Charleston and Ninety-Six, have, in consequence, fallen again into our possession. His army lay before the latter when we last heard from him. It contained seven or eight hundred men and large quantities of stores. It is nearly two hundred miles from Charleston, and, without some untoward accident, cannot fail of being taken. Greene has detachments all over South Carolina, some of them within a little distance of Charleston ; and the resentments of the people against their late insolent masters ensure him all the aids they can give in re-establishing the American Government there. Great progress is also making in the redemption of Georgia.

As soon as Cornwallis had refreshed his troops at

Wilmington, abandoning his Southern conquests to their fate, he pushed forward into Virginia. The parricide Arnold had a detachment at Portsmouth when he lay on the Dan; Philips had reinforced him so powerfully from New York, that the juncture of the two armies at Petersburg could not be prevented. The whole force amounted to about six thousand men. The force under the Marquis De La Fayette, who commanded in Virginia, being greatly inferior, did not oppose them, but retreated into Orange and Culpeper in order to meet General Wayne, who was on his way from Pennsylvania to join him. Cornwallis advanced northward as far as Chesterfield, in the county of Caroline, having parties at the same time at Page's warehouse and other places in its vicinity. A party of horse, commanded by Tarleton, was sent with all the secrecy and celerity possible to surprise and take the General Assembly and Executive who had retreated from Richmond to Charlottesville. The vigilance of a young gentleman who discovered the design and rode express to Charlottsville prevented a complete surprise. As it was, several Delegates were caught, and the rest were within an hour of sharing the same fate. Among the captives was Colonel Lyon of Hanover. Mr. Kinlock, a member of Congress from South Carolina, was also caught at Mr. John Walker's, whose daughter he had married some time before. Governor Jefferson had a very narrow escape. The members of the Government rendezvoused at Stanton, where they soon made a House. Mr. Jefferson's year having expired,

he declined a re-election, and General Nelson has taken his place. Tarleton's party retreated with as much celerity as it had advanced. On the junction of Wayne with the Marquis and the arrival of militia, the latter faced about and advanced rapidly on Cornwallis, who retreated to Richmond, and thence precipitately to Williamsburg, where he lay on the 27th ultimo. The Marquis pursued, and was at the same time within twenty miles of that place. One of his advanced parties had had a successful skirmish within six miles of Williamsburg. Bellini has, I understand, abided patiently in the college the dangers and inconveniences of such a situation. I do not hear that the consequences have condemned the experiment. Such is the present state of the war in the Southern Department. In the Northern, operations have been for a considerable time in a manner suspended. At present, a vigorous siege of New York by General Washington's army, aided by five or six thousand French troops under Count De Rochambeau, is in contemplation, and will soon commence. As the English have the command of the water, the result of such an enterprise must be very uncertain. It is supposed, however, that it will certainly oblige the enemy to withdraw their force from the Southern States, which may be a more convenient mode of relieving them than by marching the troops from New York at this season of the year to the southward. On the whole, the probable conclusion of this campaign is, at this juncture, very flattering, the enemy being on the defensive in every quarter.

The vicissitudes which our finances have undergone are as great as those of the war, the depreciation of the old continental bills having arrived at forty, fifty, and sixty for one. Congress, on the 18th of March, 1780, resolved to displace them entirely from circulation, and substitute another currency, to be issued on better funds, and redeemable at a shorter period. For this purpose, they fixed the relative value of paper and specie at forty for one; directed the States to sink by taxes the whole two hundred millions in one year, and to provide proper funds for sinking in six years a new currency which was not to exceed ten millions of dollars, which was redeemable within that period, and to bear an interest of five per cent., payable in bills of exchange on Europe or hard money. The loan-office certificates granted by Congress are to be discharged at the value of the money at the time of the loan; a scale of depreciation being fixed by Congress for that purpose. This scheme has not yet been carried into full execution. The old bills are still unredeemed, in part, in some of the States, where they have depreciated to two, three, and four hundred for one. The new bills, which were to be issued only as the old ones were taken in, are consequently in a great degree still unissued; and the depreciation which they have already suffered has determined Congress and the States to issue as few more of them as possible. We seem to have pursued our paper projects as far as prudence will warrant. Our medium in future will be principally specie. The States are already levying taxes in it. As the paper

disappears, the hard money comes forward into circulation. This revolution will also be greatly facilitated by the influx of Spanish dollars from the Havannah, where the Spanish forces employed against the Floridas * consume immense quantities of our flour, and remit their dollars in payment. We also receive considerable assistance from the direct aids of our ally, and from the money expended among us by his auxiliary troops. These advantages, as they have been and are likely to be improved by the skill of Mr. Robert Morris, whom we have constituted minister of our finances, afford a more flattering prospect in this department of our affairs than has existed at any period of the war.

The great advantage the enemy have over us lies in the superiority of their navy, which enables them continually to shift the war into defenceless places, and to weary out our troops by long marches. The squadron sent by our ally to our support did not arrive till a reinforcement on the part of the enemy had counteracted their views. They have been almost constantly blocked up at Rhode Island by the British fleet. The effects of a hurricane in the last spring on the latter gave a temporary advantage to the former, but circumstances delayed the improvement of it till the critical season was past. Mr. Destouches, who commanded the French fleet, nevertheless hazarded an expedition into Chesapeake bay. The object of it was to co-operate with the Marquis

* They have lately taken West Florida with a garrison of 1,500 troops. [Note probably in MS.]

de la Fayette in an attack against Arnold, who lay at Portsmouth with about fifteen hundred British troops. Had he got into the bay, and taken a favorable station, the event would certainly have been adequate to our hopes. Unfortunately, the British fleet, which followed the French immediately from Rhode Island, reached the capes of Virginia first. On the arrival of the latter, a regular and fair combat took place. It lasted for several hours, and ended rather in favor of of our allies. As the enemy, however, were nearest the capes, and one of the French ships had lost her rudder, and was otherwise much damaged, the commander thought it best to relinquish his object, and return to his former station. The damage sustained by the enemy, according to their own representation, exceeded that of the French; and as their number of ships and weight of metal were both superior, it does great honor to the gallantry and good conduct of Mr. Destouches. Congress, and indeed the public at large, were so sensible of this, that their particular thanks were given him on this occasion.

No description can give you an adequate idea of the barbarity with which the enemy have conducted the war in the Southern States. Every outrage which humanity could suffer has been committed by them. Desolation rather than conquest seems to have been their object. They have acted more like desperate bands of robbers or buccaneers than like a nation making war for dominion. Negroes, horses, tobacco, &c., not the standards and arms of their antagonists, are the trophies which display their success. Rapes,

murders, and the whole catalogue of individual cruelties, not protection and the distribution of justice, are the acts which characterize the sphere of their usurped jurisdiction. The advantage we derive from such proceedings would, if it were purchased on other terms than the distresses of our citizens, fully compensate for the injury accruing to the public. They are a daily lesson to the people of the United States of the necessity of perseverance in the contest; and wherever the pressure of their local tyranny is removed, the subjects of it rise up as one man to avenge their wrongs and prevent a repetition of them. Those who have possessed a latent partiality for them, as their resentment is embittered by their disappointment, generally feel most sensibly their injuries and insults, and are the foremost in retaliating them. It is much to be regretted that these things are so little known in Europe. Were they published to the world in their true colors, the British nation would be hated by all nations as much as they have heretofore been feared by any, and all nations would be sensible of the policy of abridging a power which nothing else can prevent the abuse of.

TO EDMUND PENDLETON. MAD. MSS.

PHILAD^A July 31^st 1781.

D^R SIR—I have the pleasure of your's of the 23^d I congratulate you on your return to Caroline and on the safety of your estate from the ravages of the Enemy.

The mail of last week having been intercepted near Wilmington has kept back the post a day later than his usual arrival, and I have now but a few moments for the discharge of my epistolary duty. The only certain information we have lately had from Europe is that the mediation tendered by Russia in the dispute between England & Holland has been referred by the former to the General pacification in which the mediation of the Emperor will be joined with it. As this step is not very respectful to Russia, it can only proceed from a distrust of her friendship, & their hopes of a favorable issue to the campaign which an intercepted letter from L^d^ G. Germain shews to be extravagantly sanguine. There has been nothing from the W Indies for several weeks. General Washington is continuing his preparations & progress ag^t^ N. York. I shall hazard no prediction with regard to the event of them. Col. Willet we understand has lately given a decisive defeat to a party from Canada or the Frontiers of N. York. With very sincere regard I am D^r^ Sir

Your ob^t^ friend & servant,

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TO JAMES MADISON. MAD. MSS.

PHILADELPHIA, August 1, 1781.[1]

. . . . . .

We have heard little of late from Europe, except that the Mediation proffered by Russia in the dispute between England & Holland has been referred by the

[1] The first two paragraphs relate to the purchases of family supplies and the sending of newspapers containing the latest news.

former to the general pacification in which the mediation of the Emperor will be joined with that of Russia. As this step is not very respectful to Russia it can only proceed from a distrust of her friendship and the hopes entertained by Britain as to the issue of the Campaign, which as you will see in an intercepted letter from Germaine to Clinton were extravagantly sanguine. We have no late intelligence from the W. Indies. Gen^l Washington is going on with his preparations & operations ag^st N. York. What the result will be can be decided by time alone. We hope they will at least withdraw some of the invaders from Virginia. The French fleet is still at Rhode Island. The British *it is reported* has lately left the Hook.

Aug^st 2^d—Information has been rec^d from N. York thro' a channel that is thought a good one, that orders are gone to Virginia for a large part of the troops under Cornwallis immediately to sail for that place. Should this be well founded the execution of the orders will announce it to you. Among other advantages attending an evacuation of Virg^a it will not be the least that the communication with this place by the Bay will supply the State with many necessary articles w^ch are now transported by land at so much expense & will enable you to pay for them easier by raising the price of your commodities. It gives me pain to hear that so many of the people have incautiously sold or rather given away their Tob^o to speculators when it was in no danger from the Enemy. The destruction of that article, which alarmed them,

was an obvious cause of its future rise, and a reason for their retaining it till the alarm should be over. Goods of all kinds, particularly dry goods are rising here already. Salt in particular has risen within a few days from two dollars to a guinea per bushel.

I send you by this opportunity five English Grammars[1] for Mr. W. Maury agreeably to his request. This is the first that has offered although I have had them on hand for some months. The price of the whole is a guinea. The price of Dr. Collins medical book published here is also one guinea. If you would choose a copy on that condition I can send you one by a future opportunity. With my most affectionate regards to the family.

## TO EDMUND PENDLETON.[2]

PHILADELPHIA, August 14, 1781.

DEAR SIR,—The controversy relating to the district called Vermont, the inhabitants of which have for several years claimed and exercised the jurisdiction of an independent State, is at length put into a train of speedy decision. Notwithstanding the objections to such an event, there is no question but they will soon be established into a separate and Federal State. A relinquishment made by Massachusetts of her claims; a despair of finally obtaining theirs on the part of New York and New Hampshire, the other

[1] In a postscript he corrects this statement, saying he sends six grammars and the price is 42 /. Pennsylvania equal to about 33 / 6 Virginia currency.

[2] From the Madison Papers (1840).

claimants, on whom these enterprising adventures were making fresh encroachments; the latent support afforded them by the leading people of the New England States in general, from which they emigrated; the just ground of apprehension that their rulers were engaging in clandestine negotations with the enemy; and lastly, perhaps, the jealous policy of some of the little States, which hope that such a precedent may engender a division of some of the large ones, are the circumstances which will determine the concurrence of Congress in this affair.

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, September 3, 1781.

DEAR SIR,—I am favored with yours of the 27th ultimo. This letter will be the most agreeable of any I have long had the pleasure of writing. I begin with informing you that the Commander-in-Chief and the Count Rochambeau,—the former with a part of the American army, and the latter with the whole of the French,—are thus far on their way for the Southern Department. The American troops passed through the town yesterday. The first division of the French army to-day. The second will pass to-morrow. Nothing can exceed the appearance of this specimen which our Ally has sent us of his army, whether we regard the figure of the men, or the exactness of their discipline.

Yesterday also arrived, from his special mission

[1] From the Madison Papers (1840).

to the Court of France, Colonel John Laurens. Although his success has not been fully commensurate to our wishes, he has brought with him very *substantial* proofs of the determination of that Court to support us. Besides a considerable quantity of clothing and other valuable articles, there are upwards of sixteen thousand stand of arms. It is rather unlucky that they found it expedient to put into Boston, instead of this place, from whence the distribution of them would have been so much more easy.

I wish I could have concluded the intelligence without adding that Admiral Hood, with thirteen sail of the line from the West Indies, lately arrived at New York, and after being joined by Graves with eight ships, put again immediately to sea. The French squadron under De Barras had previously sailed from Newport. As the expected arrival of De Grasse from the West Indies could not be unknown to Hood, there is little doubt that his activity is directed against the junction of the two French fleets.

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TO EDMUND PENDLETON. MAD. MASS.

PHILAD$^{A}$, Sep$^{r}$ 18$^{th}$ 1781.

DEAR SIR,—I was yesterday favored with yours of the 10th instant. The various reports arrived of late from the Chesapeake prepared us for a confirmation from our correspondents of a fortunate rencontre between the 2 fleets. A continuation of these reports although unsupported by any authentic evi-

dence still keeps up the public anxiety. We have not heard a word of de Barras. The arrival of Digby is far from being certain, and the circulating reports have reduced his force to six ships of the line. The preparations at New York for some movement are pretty well attested. The conjectures of many are directing it against this City, as the most practicable & important object within the reach of Clinton. The successful blow struck by the parricide Arnold against the Town of New London is described, as far as the particulars are known here in the enclosed Gazette. There have been several arrivals of late from Europe with very little intelligence of any kind & with none from official sources. It all relates to the junction of the French & Spanish fleets, for the purpose of renewing the investiture of Gibraltar, and enterprising something against Minorca. Thus the selfish projects of Spain not only withholds from us the co-operation of their armaments, but divert in part that of our allies, & yet we are to reward her with a cession of what constitutes the value of the finest part of America.

Gen$^{l}$ Washington & the Count de Rochambeau, with the forces under them have I presume by this time got within Virginia. This revolution in our military plan cannot fail to produce great advantages to the Southern department and particularly to Virginia, even if the immediate object of it should be unexpectedly frustrated. The presence of the Commander in chief with the proportion of our forces which will always attend him, will better protect the

country against the depredations of the Enemy although he should be followed by troops from N. Y. which w^d^ otherwise remain there, than it has hitherto been, will leave the militia more at leisure to pursue their occupations at the same time that the demands of the armies will afford a sure market for the surplus provisions of the country, will diffuse among them a share of the gold & silver of our ally & I may now say of our own of w^ch^ their Northern Brethren have hitherto had a monopoly which will be peculiarly grateful to them after having been so long gorged with depreciating paper; and as we may suppose that the ships of our ally allotted for our service will so long as his troops remain in the U. States be kept in the Chesapeake, it will revive the trade thro' that channel, reduce the price of imported necessaries & raise the staple of the Country once more to its proper value. I am, etc.

TO EDMUND PENDLETON. MAD. MSS.

PHILA, October 2, 1781.

DEAR SIR,—Yours of the 24th ult^o^ came safe by yesterday's post. In addition to the paper of this day I enclose you two of the preceding week in one of which you will find a very entertaining & interesting speech of Mr. Fox, and in the other a handsome forensic discussion of a case important in itself and which has some relation to the State of Virginia.

Our intelligence from N Y. through several channels confirms the sufferings of the B. fleet from their rash visit to the Capes of Chesapeak. The troops

which were kept in Transports to await that event have since the return of the fleet been put on shore on Staten Island. This circumstance has been construed into a preliminary to any expedition to this City, which had revived, till within a few days the preparation for a militia opposition, but is better explained by the raging of a malignant fever in the City of N Y. Digby we hear is now certainly arrived but with three ships of the line only. It is given out that three more with a large number of Transports came with him and that they only lay back till it was known whether they could proceed to N. Y. with safety. This is not improbably suspected to be a trick to palliate the disappointment and to buoy up the sinking hopes of their adherents, the most staunch of whom give up Lord Cornwallis as irretrievably lost.

We have received some communications from Europe relative to the general state of its affairs. They all center in three important points; the first is the obstinacy of G. B, the second the fidelity of our ally, and the third the absolute necessity of vigorous & systematic preparations for war on our part in order to ensure a speedy as well as favorable peace. The wisdom of the Legislature of Virginia will I flatter myself, not only prevent an illusion from the present brilliant prospects, but take advantage of the military ardor and sanguine hopes of the people to recruit their line for the war. The introduction of specie will also I hope be made subservient to some salutary operations in their finances. Another great object which in my opinion claims an immediate attention from

them, is some liberal provision for extending the benefits of Government to the distant parts of the State. I am not able to see why this cannot be done, so as fully to satisfy the exigencies of the people and at the same time preserve the idea of Unity in the State. Any plan which divides in any manner the Sovereignty may be dangerous & precipitate an evil which ought & may at least be long procrastinated. The administration of justice which is the capital branch may certainly be diffused sufficiently and kept in due subordination in every part to one supreme tribunal. Separate boards for auditing accounts may also be admitted with safety & propriety. The same as to a separate depository for the taxes &c., and as to a land office. The military powers of the Executive, may well be intrusted to militia officers of Rank, as far as the defence of the country & the custody of military stores make it necessary. A complete organization of the militia, in which Gen$^{l}$ officers would be erected would greatly facilitate this part of the plan. Such an one with a council of Field officers, might exercise without encroaching on the Constitutional powers of the Supreme Executive, all the powers over the militia which any emergency could demand.

I am, etc.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD$^{A}$ Oct$^{r}$ 9$^{th}$, 1781.

D$^{R}$ SIR,—Having sent you the arguments on one side of the judiciary question relating to the property of Virg$^{a}$ seized by Mr. Nathan, it is but reasonable

that you should see what was contended on the other side. With this view, although I in some measure usurp the task of Mr. Jones, I enclose the paper of Wednesday last. As it may escape Mr. Jones I also enclose a copy of Mr. Adams memorial to the States General. I wish I could have informed you of its being lodged in the archives of their High Mightinesses instead of presenting it to you in print.

I am, Dr Sir, etc.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD^A Oct 16th, 1781.

DEAR SIR,—When you get a sight of the Resolution of the Gen. Ass. referred to in your favor of the 8th, you will readily judge from the tenor of it what steps would be taken by the Delegates.[1] It necessarily submitted the fate of the object in question to the discretion and prospects of the Gentleman[2] whom reports it seems have arraigned to you, but who I am bound in justice to testify has entirely supported the character which he formerly held with you. I am somewhat surprised that you never had before known of the Resolution just mentioned, especially as, what is indeed more surprising, it was both debated & passed with open doors and a full gallery. This cir-

[1] The Legislature of Virginia instructed her delegates November 5, 1779, to use their utmost endeavors to maintain the freedom of the Mississippi. On January 2, 1781, these instructions were modified, the navigation to be claimed only co-extensively with our territory and "every further or other demand of the said navigation be ceded, if insisting on the same is deemed an impediment to a treaty with Spain."—Rives, i., 247, 248.

[2] John Jay, Minister to Spain.

cumstance alone must have defeated any reservations attached to it.

The N. York papers and the intelligence from thence make it evident that they have no hope of relieving Cornwallis, unless it can be effected by some desperate naval experiment and that such an one will be made. Their force will probably amount to 26 sail of the line, and if we are not misinformed as to the late arrival of three ships of the line to 29 sail. The superiority still remaining on the part of our Allies and the repeated proofs given of their skill & bravery on the water forbid any apprehension of danger. At the same time we cannot help calculating that every addition to the British force proportionally diminishes the certainty of success. A fleet of provisions amounting to about 40 sail convoyed by a 44 & 2 frigates have arrived at N. York within the week past.

Having sent all the papers containing the proceedings on the case of Mr. N. ag$^{st}$ V. as they came out, I shall to complete your view of it add the last effort in his favor published in the enclosed No. of the Freemans Journal. I am told however that the publisher ought to have subjoined that the privy Council interposed & directed restitution of the King of Spain's effects. I am, etc.

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, October 30, 1781.

DEAR SIR,—I return you my fervent congratulations on the glorious success of the combined arms

[1] From the Madison Papers (1840.)

at York and Gloucester. We have had from the Commander-in-Chief an official report of the fact, with a copy of the capitulation, and a general intimation that the number of prisoners, excluding seamen, &c., would exceed five thousand; but no detail of our gains. If these severe doses of ill fortune do not cool the phrenzy and relax the pride of Britain, it would seem as if Heaven had in reality abandoned her to her folly and her fate. This campaign was grounded on the most intense exertion of her pecuniary resources. Upwards of twenty millions were voted by the Parliament. The King acknowledged that it was all he asked, and all that was necessary. A fair trial has been made of her strength; and what is the result? They have lost another army, another colony, another island, and another fleet of her trade; their possessions in the East Indies, which were so rich a source of their commerce and credit, have been severed from them, perhaps for ever; their naval armaments, the bulwarks of their safety, and the idols of their vanity, have in every contest felt the rising superiority of their enemies. In no points have they succeeded, except in the predatory conquest of Eustatia, of which they have lost the greatest part of every thing except the infamy, and in the relief of Gibraltar, which was merely a negative advantage. With what hope or with what view can they try the fortune of another campaign? Unless they can draw succour from the compassion or jealousy of other powers, of which it does not yet appear that they have any well-founded expectation, it seems scarcely

possible for them much longer to shut their ears against the voice of peace.

I am sorry to find that the practice of impressing is still kept up with you. It is partial and oppressive with respect to individuals, and I wish it may not eventually prove so with respect to the State. The zeal and liberality of those States which make undue advances, may not find an equal disposition to re-imburse them, in others which have had more caution, or less occasion for such exertions.

You are not mistaken in your apprehensions for our Western interests. An agrarian law is as much coveted by the little members of the Union, as ever it was by the indigent citizens of Rome. The conditions annexed by Virginia to her territorial cession have furnished a committee of Congress a handle for taking up questions of right, both with respect to the ceding States, and the great Land Companies, which they have not before ventured to touch. We have made every opposition and remonstrance to the conduct of the committee which the forms of proceedings will admit. When a report is made, we shall renew our efforts upon more eligible ground, but with little hope of arresting any aggression upon Virginia which depends solely on the inclination of Congress. Since the close of the Confederation, however, it has been understood, that seven votes are necessary to carry every question. This rule, in proportion to the thinness of Congress, opposes a difficulty to those who attack. It will therefore, I believe, be impossible for the enemies of Virginia to obtain any positive injury

to her rights. My greatest anxiety at present is, lest the attempts for that purpose may exasperate the Assembly into measures which will furnish new hopes to the British Court to persevere in the war, and new baits for the credulity of the British nation. The good sense of the Assembly will, however, I flatter myself, temper every expression of their displeasure with due respect to this consideration. It would be particularly unhappy, if any symptoms of disunion among ourselves should blast the golden prospects which the events of the campaign have opened to us.

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, November 13, 1781.

DEAR SIR,—Nothing definitive has taken place on the territorial cessions. That of Virginia will not, I believe, be accepted with the conditions annexed to it. The opinion seems to be, that an acceptance of the cession of New York will give Congress a title which will be maintainable against all the other claimants. In this, however, they will certainly be deceived; and even if it were otherwise, it would be their true interest, as well as conformable to the plan on which the cessions were recommended, to bury all further contentions by covering the territory with the titles of as many of the claimants as possible. We are very anxious to bring the matter to issue, that the State may know what course their honor and security require them to take. The present thinness of Con-

[1] From the Madison Papers (1840).

gress makes it but too uncertain when we shall be able to accomplish it.

Will not the Assembly pay some handsome compliments to the Marquis, for his judicious and zealous services whilst the protection of the country was entrusted to him? His having baffled, and finally reduced to the defensive, so powerful an army as we now know he had to contend with, and with so disproportionate a force, would have done honor to the most veteran officer, added to his other merits and services, constitutes a claim on their gratitude which I hope will not be unattended to.

## TO THOMAS JEFFERSON.[1]

PHILADELPHIA, November 18, 1781.

DEAR SIR,—By the conveyance through which you will receive this, the Delegates have communicated to the State the proceedings in Congress to which the territorial cessions have given birth. The complexion of them will, I suppose, be somewhat unexpected, and produce no small irritation. They clearly speak the hostile machinations of some of the States against our territorial claims, and afford suspicions that the predominant temper of Congress may coincide with them. It is proper to recollect, however, that the report of the Committee having not yet been taken into consideration, no certain inference can be drawn as to its issue; and that the report itself is not founded on the obnoxious doctrine of an inherent right in the United

[1] From the Madison papers (1840).

States to the territory in question, but on the expediency of clothing them with the title of New York, which is supposed to be maintainable against all others. It is proper also to be considered, that the proceedings of the Committee, which we labored in vain to arrest, were vindicated not by the pretext of a jurisdiction belonging to Congress in such cases, but alleged to have been made necessary by the conditions annexed to the cession of Virginia. Although the cession of Virginia will probably be rejected, on the whole, I do not think it probable that all the principles and positions contained in the report of the Committee will be ratified. The Committee was composed of a member from Maryland, Pennsylvania, New Jersey, Rhode Island and New Hampshire; all of which States, except the last, are systematically and notoriously adverse to the claims of Western Territory, and particularly those of Virginia. The opinion of the Committee is therefore no just index of the opinion of Congress; and it is a rule observed since the Confederation was completed, that seven States are requisite in any question, and there are seldom more than seven, eight, nine or ten States present; even the opinion of a majority of Congress is a very different thing from a constitutional vote. I mention these particulars, that you may be the better able to counteract any intemperate measures that may be urged in the Legislature. If the State wishes any particular steps to be pursued by the Delegates, it would be well for particular instructions to that effect to be given. These will not only be a guide to us,

but will give greater weight to whatever is urged by us.

I enclose you a paper containing two of the many letters lately published in New York, with the subscription of Mr. Deane's name. The genuineness of some of them, and particularly that to Mr. Morris, is generally doubted. There are some who think the whole of them spurious. However this may be, there is, through another channel, indubitable proof that no injustice is done in ascribing to him the sentiments advanced in these letters. Either from pique, interested projects of trade, or a traitorous correspondence with the enemy, he has certainly apostatized from his first principles.

TO EDMUND PENDLETON. MAD. MSS.

PHILA, Nov. 27th, 1781.

DEAR SIR,—Your favor of the 19th instant came to hand yesterday. On the same evening arrived our illustrious General returning to his position on the North river. We shall probably however have his company here for some days at least, where he will be able to give Congress very seasonable aid in settling the military establishment for the next year, about which there is some diversity of opinion Whatever the total requisition of men may be on the States, I cannot but wish that Virginia may take effectual measures for bringing into the field her proportion of them. One reason for this wish is the calumnies which her enemies ground on her present deficiency, but the principal one is the influ-

ence that such an exertion may have in preventing insults & aggressions from whatever quarter they may be meditated, by shewing that we are able to defy them.

The Delegates have lately transmitted to the Gov^r^ for the Assembly all the proceedings which have taken place on the Subject of the territorial cessions. The tenor of them & the reception given them by the assembly will I doubt not be communicated to you by some of your correspondents in it.

There is pretty good reason to believe that a descent on Minorca has actually taken place. It is a little problematical with me whether successes against G. B. in any other quarter except America tend much to hasten a peace. If they increase her general distress they at the same time increase those demands against her which are likely to impede negotiations, & her hopes from the sympathy of other powers. They are favorable to us however in making it more the interest of all the belligerent powers to reject the uti possidetis as the basis of a pacification.

The report of Rodney's capture never deserved the attention it seems which was given to it.

I am, etc.

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TO EDMUND PENDLETON. MAD. MSS.

PHIL., D^r^ 11th, 1781.

DEAR SIR,—I am favored with yours of the 3d instant. Other letters by the same conveyance confirm your report of the election of Mr. Harrison to the chief magistracy. Several other appointments are mentioned which I make no doubt are all well known to you.

On whichever side Mr. Deanes letters are viewed they present mysteries. Whether they be supposed genuine or spurious or a mixture of both difficulties which cannot well be answered may be started. There are however passages in some of them which can scarcely be imputed to any other hand. But it is unnecessary to rely on these publications for the real character of the man. There is evidence of his obliquity which has for a considerable time been conclusive.

Congress have not resumed their proceedings on the Western business. They have agreed on a requisition on the States for 8,000,000 of Dollars & a completion of their lines according to the last establishment of the army. We endeavored, tho' with very little effect to obtain deductions in the first article from the quota of Virginia but we did not oppose the aggregate of the demand in either. If we do not obtain a sufficiency of men & money from the States by regular & duly appointed calls we know by experience that the burden of the war will fall on the resources of the States w^ch^ happen to be subject of it.

Mr. Moore late Vice Presid^t^ has been elected Presid^t^ of this State in place of Mr. Reed whose period of eligibility was out. I am, etc.

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TO EDMUND PENDLETON. MAD. MSS.

PHILAD^A^ Dec. 25th, 1781.

DEAR SIR,—You only do me justice in ascribing your disappointment in the part of the week preceding your favor of the 16^th^ instant, to some other cause than my neglect. If I were less disposed to

punctuality your example w^d^ preserve me from transgressing it. As the last letter went to the post office here & you did not receive it from the post in Virg^a^., the delinquency must have happened in that line. It is however I believe of little consequence, as I do not recollect that any thing material has been contained in my letters for several weeks, any more than there will be in this in which I have little else to say than to tender you the compliments of the day. Perhaps indeed it will be new to you what appeared here in a paper several days ago, that the success of Comodore Johnstone in taking 5 Duch E. India men homeward bound & destroying a 6^th^ is confirmed. Whatever may be thought of this stroke of fortune by him & his rapacious crew, the Ministry will hardly think it a compensation to the public for the danger to which the remains of their possessions in the East will be exposed by the failure of his Expedition.

It gives me great pleasure to hear of the honorable acquittal of M^r^ Jefferson. I know his abilities, & I think I know his fidelity & zeal for his Country so well, that I am persuaded it was a just one. We are impatient to know whether he will undertake the new service to which he is called. I am, etc.

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, January 8, 1782.

DEAR SIR,—Yesterday was opened, for the first time, the Bank instituted under the auspices of Con-

[1] From the Madison Papers (1840).

gress. Its principal founder is Mr. Robert Morris, who has certain prerogatives with respect to it in his quality of Superintendent of Finance. It is pretty analogous in its principles to the Bank of England. The stock subscribed is 400,000 dollars. When the scheme was originally proposed to Congress for their approbation and patronage, a promise was given that as soon as it was ripe for operation the company should be incorporated. A few days ago the fulfilment of the promise was claimed. The competency of Congress to such an act had been called in question in the first instance; but the subject not lying in so near and distinct a view, the objections did not prevail. On the last occasion, the general opinion, though with some exceptions, was, that the Confederation gave no such power, and that the exercise of it would not bear the test of a forensic disquisition, and consequently would not avail the Institution. The Bank, however, supposing that such a sanction from Congress would at least give it a dignity and pre-eminence in the public opinion, urged the engagement of Congress; that on this engagement the subscriptions had been made, and that a disappointment would leave the subscribers free to withdraw their names. These considerations were re-inforced by the Superintendent of Finance, who relied on this Institution as a great auxiliary to his department; and, in particular, expected aid from it in a payment he is exerting himself to make to the army. The immediate interposition of Congress was rendered the more essential, too, by the sudden adjournment of the

Assembly of this State, to whom the Bank might have been referred for the desired incorporation, which, it was the opinion of many, would have given them a sufficient legal existence in every State. You will conceive the dilemma in which these circumstances placed the members who felt on one side the importance of the Institution, and on the other a want of power, and an aversion to assume it. Something like a middle way finally produced an acquiescing, rather than an affirmative, vote. A charter of incorporation was granted, with a recommendation to the States to give it all the necessary validity within their respective jurisdictions. As this is a tacit admission of a defect of power, I hope it will be an antidote against the poisonous tendency of precedents of usurpation.

In the ordinance lately passed for regulating captures, which I presume you have seen, a clause was inserted exposing to capture all merchandizes produced in Great Britain, if coming into these States, and within three leagues of the coast, although the property of a neutral nation. Congress have now recommended to the States to subject them to seizure, during the war, if found on land within their respective limits. These measures had become necessary to check an evil which was every day increasing, and which both enabled and encouraged Great Britain to persevere in the war, at the same time that it mortified our ally with daily seeing the fruits of his generosity to us remitted in payment to the rival of his nation and the enemy of both.

TO THOMAS JEFFERSON.[1]

PHILADELPHIA, January 15, 1782.

DEAR SIR,—The result of the attack on your administration was so fully anticipated that it made little impression on me.[2] If it had been consistent with your sentiments and views to engage in the service to which you were called, it would have afforded me both unexpected and singular satisfaction, not only from the personal interest I felt in it, but from the important aid which the interest of the State would probably have derived from it. What I particularly refer to is her claim to Western territory. The machinations which have long been practised by interested individuals against this claim, are well known to you. The late proceedings within the walls of Congress, in consequence of the territorial cessions, produced by their recommendations to the States claiming the Western country, were, many weeks ago, transmitted for the Legislature by a Captain Irish. By the same conveyance I wrote to you on the subject. We have the mortification to find, by our latest letters from Richmond, that this gentleman had not, at the date of them, appeared there. As it is uncertain whether that information may not have totally miscarried, it will be proper to repeat to you that the States, besides Virginia, from which the cessions came, were Connecticut and New York.

[1] From the Madison Papers (1840).

[2] June 5, 1781, the Virginia Assembly ordered an investigation of Jefferson's administration as Governor. It resulted in a favorable report. He was appointed a Peace Commissioner by Congress June 14 and declined June 30.

The cession of the former consisted of all her claim west of New York as far as the Mississippi. That of the latter, of all her claims beyond a certain western limit, drawn on the occasion. The cession of Connecticut extended to the soil only, expressly reserving the jurisdiction. That of New York made no reservation. These cessions, with that of Virginia, and sundry memorials from the Indiana and other land companies, were referred to a committee, composed of a member from New Hampshire, Rhode Island, New Jersey, Pennsylvania and Maryland. The ingredients of this composition prepared us for the complexion of their proceedings. Their first step was to investigate and discuss the respective titles of the States to the territory ceded. As this was directly in the face of the recommendation of Congress, which professed to bury all such discussions, and might prejudge future controversies between individual members of the Union, we refused to exhibit any evidence in favor of the title of Virginia, and endeavored, though in vain, to prevail on Congress to interdict the Committee from proceeding in the inquiry. The next step of the Committee was still more obnoxious. They went fully into a hearing of the memorialists through their agent, and received all the evidence adduced in support of their pretensions. On this occasion we renewed our remonstrances to the Committee, and our complaints to Congress, but with as little effect as on the first occasion. The upshot of the whole was a report to Congress, rejecting the cessions of Connecticut and Virginia, and

accepting that of New York; disallowing also the claims of the companies northwest of the Ohio, but justifying that of the Indiana company. The report seems to distrust the doctrine hitherto maintained, of territorial rights being incident to the United States collectively, which are not comprehended within any individual State; substituting the expedient of recognizing the title of New York, stretching over the whole country claimed by the other ceding States, and then accepting a transfer of it to the United States. In this state the business now rests—the report having never been taken into consideration; nor do we wish it should, till it shall have undergone the consideration of Virginia.

In whatever light the policy of this proceeding may be viewed, it affords an additional proof of the industry and perseverance with which the territorial rights of Virginia are persecuted, and of the necessity of fortifying them with every precaution which their importance demands. As a very obvious and necessary one, we long since recommended to the State an accurate and full collection of the documents which relate to the subject. If the arrival of Captain Irish had taken place before the adjournment of the Assembly, and during your stay with it, we flattered ourselves that the recommendation would have been attended to, and that the task would have fallen on you. As this was not the case, we have no hope at present of being enabled, from any other sources than the voluntary aid of individuals, to contradict even verbally the misrepresentations and calumnies which are daily levelled

against the claims of Virginia, and which cannot fail to prepossess the public with errors, injurious at present to her reputation, and which may affect a future decision on her rights. Colonel Mason's industry and kindness have supplied us with some valuable papers and remarks. Mr. Jones has also received from Mr. Pendleton some judicious remarks on the subject. We are still, notwithstanding, far from possessing a complete view of it. Will you permit me to ask of you such information as your researches have yielded, with the observations which you have made in the course of them. I would not obtrude such a request on you if the subject were not of public importance, and if it could have been addressed with equal prospect of advantage elsewhere. Indeed, if you could prevail on yourself to spare as much time as would survey the whole subject, beginning with the original charter, pursuing it through the subsequent charters and other public acts of the crown, through the government of Virginia, and referring to all the transactions with the Indians which have been drawn into the question, the public utility, I am persuaded, would sufficiently reward you for the labor.

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, January 22, 1782.

DEAR SIR,—Congress are much occupied and perplexed at present with the case of Vermont. The pretensions of that settlement to the character of an

[1] From the Madison Papers (1840).

independent State, with the grounds on which they are made, and the countenance given them by Congress, are, I presume, pretty well known to you. It has long been contended, that an explicit acknowledgment of that character, and an admission of them into the Federal Union, was an act both of justice and policy. The discovery made through several channels, and particularly the intercepted letters of Lord G. Germaine, added such force to the latter of these considerations, that in the course of last summer preliminary overtures were made on the part of Congress for taking them into the Confederation, containing, as one condition on the part of Vermont, that they should contract their claims within the bounds to which they were originally confined, and guaranteeing to New York and New Hampshire all the territory without those bounds to which their encroachments had been extended. Instead of complying with this condition, they have gone on in their encroachments both on the New York and New Hampshire sides, and there is at this moment every symptom of approaching hostility with each of them. In this delicate crisis, the interposition of Congress is again called for, and, indeed, seems to be indispensable; but whether in the way of military coercion, or a renewal of former overtures, or by making the first a condition of a refusal of the last, is not so unanimously decided. Indeed, with several members, and, I may say, States in Congress, a want of power either to decide on their independence, or to open the door of the Confederacy to them, is

utterly disclaimed; besides which the danger of the precedent, and the preponderancy it would give to the Eastern scale, deserve serious consideration. These reasons, nevertheless, can only prevail when the alternative contains fewer evils. It is very unhappy that such plausible pretexts, if not necessary occasions, of assuming power should occur. Nothing is more distressing to those who have a true respect for the constitutional modifications of power, than to be obliged to decide on them.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, January 22, 1782.

DEAR SIR,—The repeal of the impost act by Virginia is still considered as covered with some degree of mystery. Colonel Bland's representations do not remove the veil. Indeed, he seems as much astonished at it, and as unable to penetrate it, as any of us. Many have surmised that the enmity of Doctor Lee against Morris is at the bottom of it. But had that been the case, it can scarcely be supposed that the repeal would have passed so quietly. By this time, I presume, you will be able to furnish me with its true history, and I ask the favor of you to do it. Virginia could never have cut off this source of public relief at a more unlucky crisis than when she is protesting her inability to comply with the continental requisitions. She will, I hope, be yet made sensible of the impropriety of the step she has taken,

[1] From the Madison Papers (1840).

and make amends by a more liberal grant. Congress cannot abandon the plan as long as there is a spark of hope. Nay, other plans on a like principle must be added. Justice, gratitude, our reputation abroad, and our tranquillity at home, require provisions for a debt of not less than fifty millions of dollars, and I pronounce that this provision will not be adequately met by separate acts of the States. If there are not revenue laws which operate at the same time through all the States, and are exempt from the control of each—the mutual jealousies which begin already to appear among them will assuredly defraud both our foreign and domestic creditors of their just claims.

The deputies of the army are still here, urging the objects of their mission. Congress are thoroughly impressed with the justice of them, and are disposed to do everything which depends on them. But what can a Virginia Delegate say to them, whose constituents declare that they are unable to make the necessary contributions, and unwilling to establish funds for obtaining them elsewhere? The valuation of lands is still under consideration.

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, February 7, 1782.

DEAR SIR,—Congress are still occupied with the thorny subject of Vermont. Some plan for a general liquidation and apportionment of the public debts is

[1] From the Madison Papers (1840).

also under their consideration, and I fear will be little less perplexing. It is proposed that until justice and the situation of the States will admit of a valuation of lands, the States should be applied to for power to substitute such other rule of apportioning the expenditures as shall be equitable and practicable, and that Commissioners be appointed by the concurrent act of the United States and each State, to settle the accounts between them. The scheme is not yet matured, and will meet with many difficulties in its passage through Congress. I wish it may not meet with much greater when it goes down to the States. A spirit of accommodation alone can render it unanimously admissible; a spirit which but too little prevails, but which in few instances is more powerfully recommended by the occasion than the present. If our voluminous and entangled accounts be not put into some certain course of settlement before a foreign war is off our hands, it is easy to see they must prove an exuberant and formidable source of intestine dissensions.

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TO JAMES MADISON. MAD. MSS.

Feb. 12, 1782.

Hon^p^ Sir,—A conveyance by a waggon returning to your neighbourhood this moment presenting itself I make use of it to forward a collection of papers which have accumulated since the last supply. If there are any deficiencies be so good as to point them out to me. By the same conveyance I send to

Mr. W. Maury 4 English grammars the price of which is 3 dollars which he is to remit thro' you.

The disappointment in forwarding the money by Mr. Brownlow has been sorely felt by me, and the more so as the Legislature has made no provision for the subsistence of the Delegates that can be relyed on.[1] I hope some opportunity will soon put it in your power to renew the attempt to transmit it, & that the delay will have made considerable addition to it. Besides the necessity of this supply for the common occasions, I have frequent opportunities here of purchasing many scarce & necessary books at $\frac{1}{4}$ of the price which if to be had at all they will hereafter cost me. If an immediate conveyance does not present itself for the cash, I wd. recomend that a bill of exchange on some merchant here be got of Mr. Hunter, Mr. Maury or other respectable merchant, & forwarded by the post. This is a safer method than the first and I make no doubt is very practicable. I wish at all events the trial to be made & that speedily.

I recollect nothing new which is not contained in

[1] J. Ambler, Treasurer of Virginia, wrote to Madison, May 11, 1782: "I sincerely wish our Treasury would enable us to make you a remittance. We have not had ten pounds Specie in it since my coming into office, and it is much to be feared there will not any come in for a long time. . . . Want of commerce prevents a due circulation of what Money is in the State so that tho' the Army of our Allies spend some with us, it remains in few hands.—The officers of Civil Government have not been paid for the last ten months." August 24th, he writes that accounts should be rendered for the number of days of service as a delegate at $8.00 a day. Madison was charged with £2000, paid in December, 1779, before he left Virginia. From that date up to November, 1782, £500 was paid him. March 22, 1783, Ambler announced that £865, 8*s*, 3*d* was still due him.—Mad. MSS.

some of the late papers. Present my affectionate regards to all the family. I have not time to add more than that I am,

your dutiful son.

TO EDMUND PENDLETON.[1]

PHILADELPHIA, February 25, 1782.

DEAR SIR,—You have been misinformed, I find, with respect to that article in the scheme of the Bank, which claims for it the exclusive privilege of issuing circulating notes. It is true, Congress have recommended to the States to allow it such privilege, but it is to be considered only during the present war. Under such a limitation it was conceived both necessary to the success of the scheme, and consistent with the policy of the several States; it being improbable that the collective credit and specie of the whole would support more than one such institution, or that any particular State would, during the war, stake its credit anew on any paper experiment whatever.

TO THOMAS JEFFERSON.[1]

PHILADELPHIA, March 18, 1782.

DEAR SIR,—I have met with a bundle of old pamphlets belonging to the public library here, in which is a map[2] published in 1650, which, from this and other

[1] From the Madison Papers (1840).

[2] Mr. P. Lee Phillips, Superintendent of the Map Department of the Library of Congress, identifies this as the map of Virginia Farrer, published in London in 1650 or 1651. It is described as a curious combination of fact and fiction and an evidence of ignorance in England of the geographical position of Virginia

circumstances, I am pretty confident is of the same impression with that of Dr. Smith's. It represents the South Sea at about ten days' travel from the heads or falls, I forget which, of James River. From the tenor, however, of the pamphlet to which it is immediately annexed, and indeed of the whole collection, there is just ground to suspect that this representation was an artifice to favor the object of the publications, which evidently was to entice emigrants from England by a flattering picture of the advantages of this country, one of which, dwelt on in all the pamphlets, is the vicinity of the South Sea, and the facility it afforded of a trade with the Eastern world. Another circumstance, which lessens much the value of this map to the antiquary, is, that it is more modern by twenty-five years than those extant in Purchase's Pilgrim, which are referred to in the negotiations between the British and French Commissaries touching the bounds of Nova Scotia, as the first of authenticity relating to this part of the world. If, notwithstanding these considerations, you still desire that a copy be taken from the map above described, I shall with pleasure execute your orders; or if you wish that a copy of Virginia, or of the whole country, may be taken from those in Purchase, your orders shall be equally attended to. I much doubt, however, whether that book be so extremely scarce as to require a transcript from it for the purpose you seem to have in view.

with reference to "the Sea of China and the Indies," which are placed west of "ould Virginia and new." The Potomac River at its mouth is called "Maryland River," and the Carolinas appear as "Rawliana." Virginia Farrer also wrote a paper on "The Reformed Virginia Silk Worm." See Phillips's *Virginia Cartography*, *Smithsonian Miscellaneous Collections*, 1039.

Congress have taken no step in the business of the Western territory since the report of the Committee, of which I have already given you an account, and which, we hear, arrived at Richmond on the day of the adjournment of the Assembly. We wish it to undergo their consideration, and to receive their instructions before we again move in it.

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, March 19, 1782.

DEAR SIR,—The Ministerial speeches, with other circumstances, place it beyond a doubt that the plan for recovering America will be changed. A separate peace with the Dutch—a suspension of the offensive war here—an exertion of their resources thus disencumbered against the naval power of France and Spain—and a renewal of the arts of seduction and division in the United States, will probably constitute the outlines of the new plan. Whether they will succeed in the first article of it, cannot be ascertained by the last intelligence we have from Holland. It is only certain that negotiations are on foot, under the auspices of the Empress of Russia.

## TO THOMAS JEFFERSON.[1]

PHILADELPHIA, March 26, 1782.

DEAR SIR,—A letter has been lately received from you by the President of Congress, accompanied by a

[1] From the Madison Papers (1840).

bundle of papers procured from the Cherokees by Colonel Campbell. As it appears that these papers were transmitted at the request of the late President, it is proper to apprize you that it was made without any written or verbal sanction, and even without the knowledge of Congress; and not improbably with a view of fishing for discoveries which may be subservient to the aggressions meditated on the territorial rights of Virginia. It would have been unnecessary to trouble you with this, had it not appeared that Colonel Campbell has given a promise of other papers; which if he should fulfil, and the papers contain any thing which the adversaries of Virginia may make an ill use of, you will not suffer any respect for the acts of Congress to induce you to forward hither.

TO JAMES MADISON. MAD. MSS.

PHILAD$^{A}$ March 30$^{th}$ 1782.

HON$^{d}$ SIR,—Mr. J. Walker has safely delivered to me three letters from you attended with the money therein specified. He has also been so obliging as to undertake the conveyance of the several articles of medicine you wanted with a gallon keg filled with good Port wine; to all which I add a large packet of Newspapers—and an almanack. The last packet I sent was by a waggon returning to your neighborhood which brought me a letter from M$^{r}$ W. Maury, by which I sent at the same time a small supply of Bark for my Mother.

I mentioned to you in one of my former letters that I had a prospect of getting on very favorable terms a few scarce books from a library brought hither for sale by Col. Lane. My purchases of him have amounted in the whole to nineteen pounds three shillings of this currency. As I had not the money here for him, & he could not conveniently wait till it would be convenient for me to pay him, I was obliged to give him a draught on you. I hope you will be able to find means to satisfy it. If it can not be otherwise done than by a deduction from the further supply you have in contemplation for me I must submit to it. How far I shall depend on you for the resources necessary for my expenses here not included in the legal provision, and for the arrearages into which I have unavoidably fallen, will be known as soon as the assembly have finally decided on our accounts & the allowance which is to be made to us. This I suppose will be done at their session in May next. Unless liberal principles prevail on the occasion, I shall be under the necessity of selling . . . a negro.

The newspapers will give you in general the intelligence we have from Europe. As far as we are enabled to judge of the views of the British Cabinet, the misfortunes of one more campaign at least will be necessary to conquer their obstinacy. They are attempting a separate peace with the Dutch & talk of suspending their offensive war ag$^{st}$ us, & directing their whole resources ag$^{st}$ the naval power of France & Spain. If this be their real plan we may be sure

they do not mean by it to abandon their pretensions to the U. States but try another mode for recovering them. During their offensive exertions ag$^{st}$ our ally, they can be practicing insidious ones ag$^{st}$ us : and if in the first they should be successful & in the latter disappointed, a renewal of a vigorous war upon us will certainly take place. The best security ag$^{st}$ every artifice & every event will be such military preparations on our part as will be sufficient either to resist or expell them as the case may require.

With my affectionate regards for the family

I am Hon$^{d}$ Sir y$^{r}$ dutiful son

## TO EDMUND PENDLETON.[1]

PHILADELPHIA, April 2, 1782.

DEAR SIR,—The only event with which the period since my last has enabled me to repay your favor of the twenty-fifth ultimo, is the arrival of four Deputies from Vermont, with a plenipotentiary commission to accede to the Confederacy. The business is referred to a committee who are sufficiently devoted to the policy of gaining the vote of Vermont into Congress. The result will be the subject of a future letter.

The thinness, or rather vacancy, of the Virginia line, and the little prospect of recruiting it, are subjects of a very distressing nature. If those on whom the remedy depends were sensible of the insulting comparisons to which they expose the State, and of the wound they give to her influence in the general

[1] From the Madison Papers (1840).

councils, I am persuaded more decisive exertions would be made. Considering the extensive interests and claims which Virginia has, and the enemies and calumnies which these very claims form against her, she is perhaps under the strongest obligation of any State in the Union, to preserve her military contingent on a respectable footing; and unhappily her line is perhaps, of all, in the most disgraceful condition. The only hope that remains is, that her true policy will be better consulted at the ensuing Assembly, and that as far as a proper sense of it may be deficient, the expostulations of her friends, and clamors of her enemies, will supply the place of it. If I speak my sentiments too freely on this point, it can only be imputed to my sensibility to the honor and interest of my country.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, April 9, 1782.

DEAR SIR,—I perceive, by a passage cited in the examination of the Connecticut claim to lands in Pennsylvania, that we have been mistaken in supposing the acquiescence of Virginia in the defalcations of her chartered territory to have been a silent one. It said that "at a meeting of the Privy Council, July 3d, 1633, was taken into consideration the petition of the planters of Virginia, remonstrating that some grants had lately been obtained of a great proportion of the lands and territories within the limits

[1] From the Madison Papers (1840).

of the Colony there; and a day was ordered for further hearing the parties, (to wit: Lord Baltimore, and said adventurers and planters.)" The decision against Virginia is urged as proof that the Crown did not regard the charter as in force with respect to the bounds of Virginia. It is clearly a proof that Virginia at that time thought otherwise, and made all the opposition to the encroachment which could then have been made to the arbitrary acts which gave birth to the present revolution. If any monuments exist of the transactions of Virginia at the period above mentioned, or any of the successive periods, at which these encroachments had been repeated, you will have an opportunity of searching more minutely into them. It is not probable, however, that after a failure in the first opposition any further opposition will be found to subsequent grants out of Virginia.

## TO THOMAS JEFFERSON. [1]

PHILADELPHIA, April 16, 1782.

DEAR SIR,—I entreat that you will not suffer the chance of a speedy and final determination of the Territorial Question, by Congress, to affect your purpose of tracing the title of Virginia to her claims. It is, in the first place, very uncertain when a determination will take place, even if it takes place at all; and in the next it will assuredly not be a final one, unless Virginia means to be passive and silent under aggression on her rights. In every event, therefore, it is

[1] From the Madison Papers (1840).

proper to be armed with every argument and document that can vindicate her title. Her adversaries will be either the United States, or New York, or both. The former will either claim on the principle that the vacant country is not included in any particular State, and consequently falls to the whole, or will clothe themselves with the title of the latter by accepting its cession. In both cases it will be alleged, that the charter of 1609 was annulled by the resumption of it into the hands of the Crown, and that the subsequent grants to Maryland, &c., denote this to have been the construction of it; that the proclamation of 1763 has constituted the Alleghany ridge the Western limit of Virginia, and that the letter of President Nelson, on the subject of a new Colony on the Ohio, relinquishes on the part of Virginia all interference with the authority of the Crown beyond that limit. In case the title of New York should alone be opposed to that of Virginia, it will be further alleged against the latter, that the treaties of 1684, 1701, 1726, 1744, and 1754, between the Government of the former and the Six Nations, have annexed to it all the country claimed by these nations and their tributaries, and that the expense of New York in defending and protecting them ought in equity to be reimbursed by this exclusive advantage. The original title of New York is indeed drawn from the charter to the Duke of York in 1663–4, renewed after the treaty of Westminister in 1674. But this charter will not, I believe, reach any territory claimed by Virginia.

Much stress will also be laid on the treaty of Fort Stanwix, particularly as a bar to any corroboration of the claim of Virginia from the treaties of Lancaster and Loggstown. It is under this treaty that the companies of Indiana and Vandalia shelter their pretensions against the claims of Virginia, &c. &c. See the pamphlets entitled "Public Good" and "Plain Facts." As these pretentions can be of no avail, unless the jurisdiction of Congress, or New York at least, can be established, they no otherwise deserve notice than as sources of calumny and influence in the public councils; in both which respects it is the interest of Virginia that an antidote should be applied.

## TO EDMUND RANDOLPH. [1]

PHILADELPHIA, April 23, 1782.

DEAR SIR,—Congress have received from the Minister of France some informal communications relative to the issue of the proposed mediation of Vienna and Petersburgh. The answer of the British Court to the preliminary articles is among them. It rejects explicitly that part of the plan which requires concurrent negotiations between her and America, and guaranties the result, as incompatible with the relation of subjects to their sovereign, and the essential interests of the Empire; alleging, at the same time, that a great part of the people are disposed to return to their allegiance, and that such a treaty would supply the rebels with new pretexts for misleading

[1] From the Madison Papers (1840).

them. The final answer of the mediating Courts professes great impartiality and delicacy toward the belligerent parties ; adheres to the expediency of the first plan, and hopes that it may still become, under more favorable circumstances, the basis of a general pacification.

Another letter has come to hand from Mr. Dana. His proposed step was probably taken a few days after the date of it, which was about the middle of October.

The Committee on the last application from Vermont have reported fully in their favor. The consideration of the report will not be called for, however, till the pulse of nine States beats favorably for it. This is so uncertain that the agents have returned. The recognition of the Independence of Vermont is not fully stated in the report, as a resolution, antecedent, went to authorizing a committee to treat with them on the terms of their admission. You will know the object of this arrangement.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, May, 1782.

DEAR SIR,—The enclosed gazette details all the information which we have received relative to the parliamentary advances towards a negotiation with the United States. The first reports which issued from the packet which brought them, were of a very different complexion, and raised high expectations of peace. We now find the ideas of the opposition, as

[1] From the Madison Papers (1840).

well as the Ministry, to be far short of the only condition on which it can take place. Those who are the farthest reconciled to concessions calculate on a dissolution of the compact with France. The Ministry will yield to the experiment, and turn the result upon their adversaries. Our business is plain. Fidelity to our allies, and vigor in military preparation, —these, and these alone, will secure us against all political devices.

We have received no intelligence which speaks a danger of a separate peace between the Dutch and Great Britain. Mr. Adams' request of a categorical answer was taken, *ad referendum*, prior, if I mistake not, to the knowledge of Cornwallis' fate; and it is not likely that after that event they would be less disposed to respect our overtures, or reject those of the enemy.

We have letters from Mr. Jay and Mr. Carmichael of as late date as the twenty-seventh of February. They differ in nothing from the style of the former. The conduct of the Spanish Court subsequent to the date of the letter received the day preceding your departure, corresponds entirely with the tenor of it as therein related. Mr. Jones will inform you of the act of Congress which that letter produced.

We have made no progress in the Western subject. We mean to desist, after one or two more attempts, and state the matter to the Assembly by next post, expecting that they will pursue such measures as their interest prescribes, without regard to the resolutions which proposed the cession.

I beg you to keep me punctually informed of every legislative step touching the Western territory. I suppose the cession cannot fail to be revoked, or, at least, a day of limitation set to it. The condition relative to the companies will certainly be adhered to in every event. I find that those who have been against us do not wish to lose sight of the prospect altogether. If the State is firm and prudent, I have little doubt that she will be again courted. Previous to Mr. Jones' departure, our opinions were united on the expediency of making the impost of five per cent. subservient to an honorable adjustment of territory and accounts. I have since discovered that Varnum is left out, the latter having promoted it, and that Chase is inflexible against it. Massachusetts also holds out. The expedient, therefore, would not be efficacious, and clamors would be drawn on Virginia, which it would be best should fall elsewhere. Show this to Mr. Jones. He will be with you about the twentieth instant.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, May 14, 1782.

DEAR SIR,—The Ceres man-of-war, we are informed by a New York paper, arrived there, in twenty-five days, on the fifth instant, having on board His Excellency, Sir Guy Carleton, Commander-in-Chief, &c., and *commissioned for making peace or war* in North America. The intelligence brought by this

[1] From the Madison Papers (1840).

conveyance is, that the vibrations of power between the Ministry and their rivals had terminated in the complete dissolution of the former and organization of the latter. What change of measures will follow this change of men is yet concealed from us. The bill for empowering the King to conclude a peace or truce with the revolted Colonies in North America had been brought into Parliament on the twenty-seventh of March. The language of it is at the same time cautious and comprehensive, and seems to make eventual provision for our independence, without betraying any purpose of acknowledging it. The terms peace and truce are scarcely applicable to any other conventions than national ones. And the King is authorized to annul or suspend all acts of Parliament whatever, as far as they speak of the Colonies. He can, therefore, clearly remove any parliamentary bar to his recognition of our Independence, and I know of no other bar to his treating with America on that ground. All this is, however, very different from a real peace. The King will assuredly prefer war as long as his Ministry will stand by him, and the sentiments of his present Ministry, particularly of Shelburne, are as peremptory against the dismemberment of the Empire as those of any of their predecessors. They will at least try a campaign of negotiation against the United States, and of war against their other enemies, before they submit to it. It is probable that the arrival of Sir Guy Carleton will not long precede an opening of the first campaign. Congress will, I am persuaded, give a proper verbal

answer to any overtures with which he may insult them; but the best answer will come from the States, in such supplies of men and money as will expel him and all our other enemies from the United States.

We have at length brought our territorial business to an issue. It was postponed *sine die* on the sixth instant. We have transmitted the whole proceeding to the Governor, to be laid before the Assembly.

There are various accounts from the West Indies, which render it pretty certain that an engagement has taken place between the two fleets. The circumstances are not ascertained. The issue seems, at least, to have been so far in favor of our allies as to leave them free to pursue their course with their convoy to Hispaniola, where a junction is to be made with the Spaniards. The object of this junction is universally supposed to be Jamaica.

Since I finished the above, a letter has come to Congress from General Washington, enclosing one to him from Sir Guy Carleton, announcing his commission, in conjunction with Admiral Digby, to treat of peace with this country, and requesting a passport for his secretary, Mr. Morgan, to bring a similar *letter of compliment* to Congress. The request will certainly be refused, and General Washington probably directed to receive and forward any despatches which may be properly addressed to Congress.

A public audience was yesterday given to the Minister of France, in which he formally announced the birth of the Dauphin. It was deemed politic at this crisis to display every proper evidence of

tionate attachment to our ally. The Minister was accordingly received with military honors, and the audience concluded with the discharge of cannon, and a *feu de joi* of small arms. A public entertainment followed, and fireworks at night closed the scene.

The answer reported by the committee on Mr. Dana's letter gave him a cautionary instruction. It afterwards went to the Secretary of Foreign Affairs, and thence, I suppose, in his dress, to Petersburg. Mr. Jones will give you more satisfactory information on this, as also with respect to the answer to Mr. Jay's letter.

Your surmises relative to a revival of paper currency alarms me. It is impossible that any evil can render such an alternative eligible. It will revive the hopes of the enemy, increase the internal debility of the States, and awaken the clamors of all ranks throughout the United States against her. Much more to Virginia's honor would it be to rescind the taxes, although the consequence of that can but be of a most serious nature.

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TO JAMES MADISON. MAD. MSS.

PHILA, May 20th, 1782.

HONR SIR,—Having written a letter and enclosed it with a large collection of Newspapers, for you which was to have been carried by Mr J. Smith, but which I have now put into the hands of Capt: Walker, whose return will be quicker, little remains for me to add here. Our anxiety on account of the West India

news, published at New York is still supported by contradictory reports and conjectures. The account however to which Rodneys name is prefixed renders our apprehensions too strong for our hopes. Rivington has been very bold in several of his spurious publications, and, at this conjuncture might venture as far to serve a particular turn as at any. But it is scarcely credible that he would dare or be permitted to sport with so high an official name.

If M^r^ Jefferson will be so obliging as to superintend the legal studies of W^m^ I think he cannot do better than prosecute the plan he has adopted. The interruption occasioned by the Election of Mr. J.[1] although inconvenient in that respect, is by no means a decisive objection ag^st^ it.

I did not know before that the letters which M^r^ Walker was to have carried last fall had met with the fate which it seems they did. I shall be more cautious hereafter. The papers missing in your list were I presume for I do not recollect, contained in them.

The short notice does not leave me time to obtain the information you ask as to Stiles. I have never heard of Iron Stiles cast here, nor do I know the price of Copper ones.

If Continental money passes here at all it is in a very small quantity, at very great discount, and merely to serve particular local & temporary ends.

It has at no time been more difficult for me to fix my probable return to Virg^a^ At present all my Colleagues have left Congress except Col: Bland, and it

[1] Jefferson had just been elected to the Legislature.

is a crisis which calls for a full representation from every State. Anxious as I am to visit my friends, as long as I sustain a public trust, I shall feel a principle which is superior to it. The state of my finances also, unless the Assembly shall make a different provision for the Delegates from what has hitherto been in force, will be a serious bar to my removal from this place. I shall I believe be under the necessity of purchasing a carriage of some kind besides discharging considerable arrears, & where the means for effecting either are to be found is totally without my comprehension. * * * * *

I am, etc.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, May 21, 1782.

DEAR SIR,—Your favor of the 10th was received yesterday. I suspect that I have expressed myself ambiguously with respect to Mr. Jefferson. He does not allege ignorance of the report of the committee, but of the title of New York, which is the ground on which the report places the controversy with Virginia.

The final report of our suit to Congress for an answer to the Western cession was sent by the last post. Mr. Jones can explain every thing relative to it. I feel myself much disburdened by the termination of the business. If it should be revived here, in consequence of steps taken by the Legislature, I flatter myself it will be under circumstances less embarrassing.

[1] From the Madison Papers (1840).

TO EDMUND RANDOLPH.[1]

PHILADELPHIA, May 28, 1782.

DEAR SIR,—A letter from Dr. Franklin, of the fourth March, informs the Superintendent of Finance that the Court of France had granted an aid of six millions of livres to the United States for the present year. It appears, however, that this aid has been wholly anticipated, as well as the aids of the last year, by bills of exchange; by supplies for the army, particularly those in Holland; by the debt of Beaumarchais, amounting to two millions and a half of livres; by the interest money; by the deduction on account of Virginia, computed at seven hundred thousand livres, &c. The States must, therefore, by some means or other, supply the demands of Congress, or a very serious crisis must ensue. After the differences between the modes of feeding the army by contracts and by the bayonet have been experienced both by the army and the people, a recurrence to the latter cannot be too much dreaded.

The Province of Friesland has instructed its Delegates in the States General to concur in a public reception of Mr. Adams. The city of Dort has done the same to theirs in the Provincial Assembly of Holland.

The above letter came by the Alliance, which is arrived at Rhode Island. Captain Barry, I am told, says that the Marquis will come with a squadron for the American coast, which was equipping. If this be true, Barry is wrong in disclosing it. I distrust it.

[1] From the Madison Papers (1840).

A French cutter is since arrived, after a short passage, with despatches for the Minister here. He received them on Saturday by an express from Salem, and has not yet communicated their contents to Congress. I understand, through the Secretary of Foreign Affairs, that the Court of London has lately proposed to the Court of France a separate peace, as the price of which she would place Dunkirk in its former state, make some sacrifices in the East Indies, and accede to a *status quo* in the West Indies. The answer of France was dictated by her engagements with the United States. This insidious step taken at the same moment with the agency of Mr. Carleton, will, I hope, not long be withheld from the public. We have heard nothing from this gentleman since the answer to his request of a passport for his secretary.

In order to explain our public affairs to the States, and to urge the necessity of complying with the requisitions of Congress, we have determined to depute two members to visit the Eastern States, and two the Southern. The first are Root and Montgomery; the others, Rutledge and Clymer. I put this in cypher, because secrecy has been enjoined by Congress. The deputation will probably set off in a few days.

I find that the Minister of France has been informed, by some correspondent in Virginia, that the late intelligence from Britain has produced very unfavorable symptoms in a large party. He seems not a little discomposed at it. The honor of the State

concurred with my own persuasion in dictating a consolatory answer to him. For this reason, as well as for others, I think it would be expedient for the Legislature to enter into an unanimous declaration on this point. Other States are doing this, and such a mode of announcing the sense of the people may be regarded as more authentic than a declaration from Congress. The best form, I conceive, will be that of an instruction to the Delegates. Do not fail to supply me with accurate and full information on the whole subject of this paragraph.

A letter from Dr. Franklin, of thirtieth of March, enclosing a copy of one to him from Mr. Adams, at the Hague, was laid before Congress subsequently to writing the above. By these, it appears not only that an essay has been made on the fidelity of France to the alliance, but that the pulse of America has been at the same time separately felt through each of those Ministers. They both speak with becoming indignation on the subject, attest the firmness of our ally, and recommend decisive efforts for expelling the enemy from our country. Mr. Adams says, 'ten or eleven cities of Holland have declared themselves in favor of American Independence, and it is expected that to-day or to-morrow this Province will take the decisive resolution of admitting me to my audience. Perhaps some of the other Provinces may delay it for three or four weeks, but the Prince has declared that he has no hopes of resisting the torrent, and, therefore, that he shall not attempt it. The Duke de la Vauguyon has acted a very friendly and

honorable part in this business, without, however, doing any ministerial act in it.' What was said above of Friesland came from Mr. Barclay, the Consul. Mr. Adams says nothing of that Province, although his letter is of later date.

The Secretary of War has just given notice to Congress, that the Department of Finance is unable to supply the essential means of opening the campaign. This shocks, rather than surprises, us. It will be one article in the communications of the deputies above mentioned, and adds force to the expediency of their mission.

The denial to Congress of the right of granting flags is singular indeed. May not the power of Congress to agree to a truce be contested on the same grounds? The former is a partial truce, and if the silence of the Confederation reserves it to the States, the same silence reserves the latter. Admitting that Congress had the right of granting flags, was it not exercised to the advantage of Virginia in procuring a vent to her staple, and stopping the exportation of her specie?

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, May 29, 1782.

DEAR SIR,—I wrote you yesterday morning by the post, fully and in cypher. As I am told, however, the bearer will probably be in Richmond before the post, it may not be amiss to repeat to you that we

[1] From the Madison Papers (1840).

have heard nothing from Carleton since our refusal of the passport to his secretary, and that we have authentic information from Europe, that insidious attempts have been made both on Doctor Franklin and Mr. Adams, by British emissaries, as well as tempting overtures employed to divide our ally from us. These machinations have served no other end than to expose the meanness and impotence of our enemy, and to supply fresh proofs of the indissoluble nature of the alliance. Mr. Adams begins to advance with considerable speed towards the object of his mission in Holland.

The action in the West Indies is still wrapt up in darkness. The enclosed paper contains a specimen of the obscure and contradictory advices which have alternately excited our hopes and our apprehensions.

A copy of sundry resolutions of the House of Delegates, touching the exportation of tobacco in the flags, was laid before Congress yesterday by the Superintendent of Finance, and referred to a committee. On a review of the doctrine of the ninth Article of Confederation, I believe, the right of the State to prohibit in the present case the exportation of her produce cannot be controverted. The States seem to have reserved at least a right to subject foreigners to the same imposts and prohibitions as their own citizens ; and the citizens of Virginia are at present prohibited from such an exportation as is granted in favor of the British merchants. This is a very interesting point, and unless the division line between the authority of Congress and the States be properly

ascertained, every foreign treaty may be a source of internal as well as foreign controversy. You will call to mind one now in negotiation, which may be affected by the construction of this clause in the Confederation. Congress have no authority to enter into any convention with a friendly power which would abridge such a right. They cannot have a greater authority with respect to a hostile power. On the other side, it is equally clear, that the State has no authority to grant flags for the exportation of its produce to the enemy. Armed vessels would not respect them, nor would they be more respected in the Courts of Admiralty. Unless Congress and the State, therefore, act in concert, no tobacco can be remitted to New York, and a further drain of specie must ensue. When the matter was first opened in Congress, the impression was unfavorable to the right of the States, and pretty free strictures were likely to be made on its opposition to the constitutional power of Congress. It became necessary, therefore, to recur to the law and the testimony, which produced an acquiescence in the contrary doctrine. Their sentiments, however, with regard to the policy and consistency of the resolutions, are very different. The last resolution in particular, compared with the preliminary doctrines, produces animadversions, which I need not recite to you. There are several reasons which make me regret much this variation between Congress and Virginia, of which a material one is that a great personage will be touched by it, since it originates in his act; and, since a conference between

a committee and him and the Superintendent, he concurred in the expediency of granting the passports.

## TO EDMUND RANDOLPH [1]

PHILADELPHIA, June 4, 1782.

DEAR SIR,—According to your request, I send an authenticated extract from the Journals of the vote of Congress on the clause which interdicts British manufactures. It has, however, been for some time in print, and will probably be at Richmond before you receive the manuscript copy. The arguments urged against the measure appear to me in the same light in which you describe them. The policy of Great Britain in the capture of St. Eustatia has been constantly reprobated by some of the wisest statesmen. But whatever her policy might at that period be, it is manifest that a very different one is now pursued. British goods are issued from the enemy's line with greater industry than they have ever been, and, as is universally believed, with the knowledge, if not at the instigation, of those in power. Indeed, they would counteract their new system in doing otherwise. The sense of the Eastern States will appear from the ayes and noes on the question. Mr. Adams, in his last despatches, ascribes much of the late pacific symptoms in the British nation, and of the facilities which begin to attend the mission in Holland, to our proscription of the British merchandize.

[1] From the Madison Papers (1840).

You have not sufficiently designated the papers from Mr. R. Morris, from which you wish an extract. I do not recollect, nor can I find, any letter which contains a state of the finances, except his circular letters, which may be found either among the Legislative or Executive archives. If you should be disappointed in these researches, I will, on a renewal of your demands, renew my researches. My charity, I own, cannot invent an excuse for the prepense malice with which the character and services of this gentleman are murdered. I am persuaded that he accepted his office from motives which were honorable and patriotic. I have seen no proof of misfeasance. I have heard of many charges which were palpably erroneous. I have known others, somewhat suspicious, vanish on examination. Every member in Congress must be sensible of the benefit which has accrued to the public from his administration; no intelligent man out of Congress can be altogether insensible of it. The Court of France has testified its satisfaction at his appointment, which I really believe lessened its repugnance to lend us money. These considerations will make me cautious in lending an ear to the suggestions even of the impartial; to those of known and vindictive enemies, very incredulous. The same fidelity to the public interest which obliges those who are its appointed guardians, to pursue with every rigor a perfidious or dishonest servant of the public, requires them to confront the imputations of malice against the good and faithful one. I have, in the conduct of my colleague here, a sure index of

the sentiments and objects of one of my colleagues who is absent, relative to the Department of Finance.

The Chevalier de la Luzerne tells us he has written to the General on the subject of the transaction between them, and has no doubt that the difficulties which attended it will be removed.

## TO EDMUND RANDOLPH [1]

PHILADELPHIA, June, 1782.

DEAR SIR,—General Washington has transmitted to Congress sundry informations he has received, of preparations at New York for expediting from thence a considerable number of ships. Whether they are to convoy troops, and whither, or to bring off troops from other places, is uncertain. He has also transmitted to Congress an answer to him from General Carleton, on a demand, made at the instance of the Legislature of South Carolina, of a re-transportation of the exiles at the expense of the King of Great Britain. This demand was instituted, not executed, during the command of Clinton, from whom an imperious refusal was calculated upon. In pursuance of the views of the new system, his successor weeps over the misfortunes of the exiles, and in the most soothing language that could be framed, engages to comply fully with the application. This incident at once mortifies our pride and summons our vigilance. We have nothing further from Carleton on the main point.

[1] From the Madison Papers (1840).

The communication, expected in my last from the Minister of France, has been received, and afforded a very seasonable occasion, which was improved, of renewing the assurances suited to the present crisis.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, June 6, 1782.

DEAR SIR,—Mr. Webb being detained till this morning, I enclose the gazette of it. You will find a singular extract from Lord North's budget. The speech was delivered on the eleventh of March. It must have been Mr. Ross's contract, therefore, and not Mr. Morris's, which supplied this article. I am just told that the Senate have put their veto on the resolutions of the House of Delegates against the latter. If an existing law, however, prohibits the exportation, and one branch of the Legislature protests against the authority of Congress to dispense with it, the Executive will scarcely suffer the tobacco to be exported. * * * The proviso in the resolutions in favor of the contract of the State agents, furnishes, I find, a copious topic for anti-Virginian critics. It is inconsistent with the laws of the State—with the ordinances of Congress—with the treaty with France—with gratitude to our allies—for tobacco to be shipped to New York, by Mr. Morris, for the advantage of the United States; but if the

[1] From the Madison Papers (1840).

identical tobocco be shipped by Mr. Ross, for the advantage of Virginia, the inconsistency is done away in the eyes of the House of Delegates of Virginia.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, June 11, 1782.

DEAR SI ,—I have your favor of the first instant. I hope you have received mine, although you do not acknowledge them. My punctuality has not been intermitted more than once or twice since your departure, and in no instance for a considerable time past.

I have written so fully concerning the flags that I have nothing to add on that subject, but that I wish the Senate may, by their perseverance on this occasion, exemplify the utility of a check to the precipitate acts of a single legislature.

Having raised my curiosity by your hints as to certain manœuvres, you will not forget your responsibility to gratify it. The pleasure I feel at your being included in the commission for vindicating the claims of Virginia, is considerably impaired by my fears that it may retard your return hither.

Great as my partiality is to Mr. Jefferson, the mode in which he seems determined to revenge the wrong received from his country does not appear to me to be dictated either by philosophy or patriotism.[2] It argues,

[1] From the Madison Papers (1840).

[2] He had temporarily retired from public life.

indeed, a keen sensibility and strong consciousness of rectitude. But this sensibility ought to be as great towards the relentings as the misdoings of the Legislature, not to mention the injustice of visiting the faults of this body on their innocent constituents.

Sir Guy Carleton still remains silent. The resolutions which the Legislatures of the States are passing, may, perhaps, induce him to spare British pride the mortification of supplicating in vain the forgiveness of rebels.

Mr. Izard, warm and notorious as his predilection for the Lees is, acknowledges and laments the opposition made by them to measures adapted to the public weal.

The letter in the first page of the Gazette of this morning was written by Mr. Marbois.[1] In an evening of promiscuous conversation I suggested to him my opinion, that the insidiousness of the British Court, and the good faith of our ally, displayed in the late abortive attempt of the former to seduce the latter, might with advantage be made known, in some form

[1] The letter appeared in the *Pennsylvania Packet* for June 11, 1782, as an "Extract of a letter, written from Philadelphia by a gentleman in office, to one of the principal officers of the State of New Jersey." Marbois' authorship was carefully concealed, the letter purporting to come from an American. It confirmed the reported victory of Sir G. Rodney over the French in the West Indies, but declared it to be a barren one, and that it had "afforded us an occasion of displaying a national character, a good faith, a constancy and firmness worthy of a people who are free, and determined to perish sooner than cease to be so," as the resolutions to reject offers of a separate peace passed in Maryland, Pennsylvania, Virginia, and New Jersey showed. The article is printed in full in the Madison Papers, vol. iii., xxxvi.

or other, to the public at large. He said he would think of the matter, and next day sent me the letter in question, with a request that I would revise and translate it for the press, the latter of which was done. I mention this that you may duly appreciate the facts and sentiments contained in this publication.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, June 18, 1782.

DEAR SIR,—I received no letter from you yesterday, nor shall I receive any for that week, unless it be through the channel of Rivington's Gazette, the post having been robbed of his mail on Saturday evening last in Maryland. I hope your letter did not contain anything not in cypher which is unfit for the public eye. The policy, however, which seems to direct Carleton's measures, renders it probable that he will decline the mean expedient pursued on such occasions by his predecessors for giving pain to individuals. It will be proper for us to take from this accident an admonition to extend the use of our cypher.

The trade with New York begins to excite general indignation, and threatens a loss of all our hard money. The continued drains which it makes from the bank must at least contract its utility, if it produces no greater mischief to it. The Legislature of New Jersey are devising a remedy for this disgraceful and destructive traffic, and a Committee of Congress are also employed in the same work. I have

[1] From the Madison Papers (1840)

little expectation that any adequate cure can be applied, whilst our foreign trade is annihilated, and the enemy in New York make it an object to keep open this illicit channel.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, June 25, 1782.

DEAR SIR,—Your favor of the fifteenth, being more fortunate than the preceding one, came safe to hand yesterday. The loss of the mail is the more provoking, as it is said to have contained a packet from New York, which had been intercepted on its passage to England and carried to North Carolina.

The illicit trade with the British lines has been pushed so far, under the encouragement of the enemy, as to threaten a deep wound to our finances. Congress have renewed the exhortation to the States on this subject, and recommended to the people, through them, a patriotic co-operation with the public measures. This trade, we have also discovered, is carried on with considerable effect, under collusive captures. This branch of the iniquity falls properly within the purview of Congress, and an ordinance for its excision is in the hands of a committee.

A letter from Mr. Adams, of the eleventh of April, informs his correspondent that five of the seven provinces had decided in favor of a treaty with the United States, and that the concurrence of the remaining two might be expected in a few days. A Leyden paper,

[1] From the Madison Papers (1840).

of a subsequent date, reduces the exception to a single province. It would seem, from a memorial from the merchants to the States General, that this resolution had been greatly stimulated by an apprehension that a sudden pacification might exclude their commerce from some of the advantages which England may obtain. The memorial appeals to the effect of the American trade on the resources of France, and to the short and indirect experience of it, which Holland enjoyed before the loss of St. Eustatia, as proof of its immense consequence. It observes, also, that the ordinance of Congress against British manufactures presented a precious crisis for introducing those of other nations; which ought to be the rather embraced, as nothing would be so likely to dispose Britain to the independence of America and a general peace, as the prospect of her being supplanted in the commercial preference expected from the habits of her lost provinces.

The present conjecture with regard to the fleet mentioned in my late letters, is, that it conveyed a parcel of miserable refugees, who are destined to exchange the fancied confiscations of their rebellious countrymen, for a cold and barren settlement in Nova Scotia or Penobscot.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, July 2, 1782.

DEAR SIR, — The confidential and circumstantial communications, in your favor of the twentieth of

[1] From the Madison Papers (1840).

June, have afforded me much pleasure. Those which relate to the scheme of garbling the delegation were far from surprising me. In a conversation with Mr. Jones, before he left Philadelphia, it was our joint inference, from a review of certain characters and circumstances, that such a scheme would be tried.

No addition has been made to our foreign intelligence in the course of the past week. Some of the republications from the European papers herewith sent throw light, however, on the general state of foreign affairs. Those which relate to Ireland, in particular, are very interesting. The Empress of Russia appears, by the memorial of her Ministers, to be more earnest in forwarding a reconciliation between England and Holland, than is consistent with the delicate impartiality she has professed as mediatrix, or with that regard which we flattered ourselves she felt for the interests of the United States.

One article of our late communications from France was, that the interest on the certificates is no longer to be continued, and that provision must be made within ourselves. This has caused great commotion and clamor, among that class of public creditors, against Congress, who, they believe, or affect to believe, have transferred the funds to other uses. The best salve to this irritation, if it could with truth be applied, would be a notification that all the States had granted the impost of five per cent., and that the collection and appropriation of it would immediately commence. It is easy to see that the States whose jealousy and delays withhold this resource from the

United States, will soon be the object of the most bitter reproaches from the public creditors. Rhode Island and Georgia are the only States in this predicament, unless the acts of Virginia and Maryland should be vitiated by the limitations with which they are clogged.

No step has yet been taken in the instructions prepared before your departure. I expostulated a few days ago with Dr. Witherspoon on the subject, and prevailed on him to move in the business; but his motion only proved the watchfulness and inflexibility of those who think they advance towards their own objects, in the same proportion as they recede from those of Virginia. I have since shown him the report, and he is a confirmed advocate both for the innocence and expediency of it.

We are, even at this day, without official advice of the naval event of the twelfth of April, in the West Indies; nor have we any advices of late date from that quarter. There is little room to hope that the misfortune of our ally will be repaired by any subsequent enterprises.

Congress are much perplexed by the non-appearance of Connecticut at the time appointed for the meeting of her agents and those of Pennsylvania. We wish to avoid leaving her any pretext to revive the controversy, and yet the reasons for her neglect cannot be pronounced sufficient. Her adversary professes a strong jealousy that she means, by every artifice, to parry a decision during the war; and it cannot be denied that appearances but too well authorize it.

## REPORT OF THE COMMITTEE CONSISTING OF MR. MADISON, MR. DUANE, & MR. CLYMER, RELATIVE TO THE INSTRUCTIONS OF MR. ADAMS—JULY 5th, 1782.

MAD. MSS.

The comittee appointed to revise the instructions of Mr Adams &c, recommend.

That the Minister Plenipo : at the Hague be instructed, in case no definitive steps shall have been taken by him in the proposed Treaty of amity and commerce with the U. Provinces, to engage them if possible, in an express stipulation to furnish annually to the U. States, a loan of , with an interest not exceeding , the principal not to be demanded within years after the conclusion of the war, and the payment of the interest to be suspended during the war ; or in case the U. Provinces shall refuse to stipulate such a loan, that the said Minister endeavor to obtain their engagements, to authorize and countenance a loan from their subjects & to guaranty if requisite the due payment of the interest & repayment of the principal by the U. States.

That in case definitive steps shall have been taken in the proposed Treaty, the said Minister Plenipo: be instructed still to represent to the U. Provinces the great advantages which would result as well to them as to the U. States from such pecuniary succours to the latter as would give stability to their finances and energy to their measures against the common Enemy: and to use his utmost address to prevail on them either to grant directly the loan abovementioned, or to support by such responsibility as may be necessary the applications made to individuals for that purpose, on the part of the U. States.

The Committee beg leave to observe that in the Treaty between the U. S. & M.[ost] C.[hristian] Majesty, it is among other things stipulated that the subjects of the parties "may by testament, donation, or otherwise dispose of their "goods immoveable as well as moveable, in favor of such persons, as to them "shall seem good, and the heirs of the respective subjects, wheresoever resid- "ing, may succeed them ab intestato without being obliged to obtain letters of "naturalization :

That the plan of the proposed treaty between the U. S. & the U. P. with which the Minister Plenipo: of the former is furnished, extends this privilege to the subjects of the latter, under a general stipulation of the same privileges as are allowed to the most favor'd nation :

That as it is not probable that the U. P. have granted, or will grant this privilege even to the most favored nation, the said treaty if executed in its present form, will engage the U. S. in a concession which will not be reciprocal, and which if reciprocal, would not be equally beneficial to the parties.

That in the opinion of the committee it is at least questionable whether the extension of this privilege to the subjects of other powers than France and Spain will not encroach on the rights reserved by the federal articles to the individual States:

That without enquiring into the inconveniences which may result from an indefinite permission to aliens to hold & transmit real estates within this country the apparent reluctance of some of the States, notwith[standing] the special clause in the federal articles with respect to France their favorable disposition towards her to pass the proper laws on this subject, renders their compliance in case of a similar engagement to another power, extremely precarious.

That in order to avoid these difficulties & consequences, the committee recommend further:

That the s$^{d}$ Minister Plenipo: be instructed in case no steps inconsistent therewith, shall have been taken, to decline stipulating to the subjects of the U. Provinces any right or privilege of holding any real estates within the U. States.[1]

## TO EDMUND RANDOLPH.[2]

PHILADELPHIA, July 9, 1782.

DEAR SIR,—Your favors of the twenty-seventh were received this morning. I sincerely regret that any reports should have prevailed injurious to the patriotism of Williamsburg, and particularly that my name should, in any manner whatever, be connected with them. I informed Mr. Jones that the Minister of France had been made somewhat uneasy by some accounts from Virginia, and desired him to enable me to remove it by proper inquiries. It must have been a very gross mistake that could have built the reports in question on this letter, even if its contents had been known. You saw, I presume, the letter. I think I wrote you a letter to the same effect, but I am not sure.

The trade with the enemy at New York has at length, I am told, produced spirited and successful

[1] "8th [July]. Last part recommitted." These words in Charles Thomson's hand.

[2] From the Madison papers (1840).

exertions among the people of New Jersey for suppressing it. The same alarm and exertions seem to be taking place in Connecticut. The ordinance of Congress against collusive captures on water has not yet passed. The mode of proof, and the distribution of the effects, occasioned some diversity of opinion, and a recommitment ensued. I am not very sanguine that any thing of efficacy will be done in the matter. Notwithstanding the supposed danger arising to the Bank from the exportation of hard money to New York, a dividend of four and a half per cent. for the first half year has been advertised to the stockholders. Will not this be very captivating to the avarice of the Dutchman, in case his apprehensions shall be removed by a political connection between the two countries?

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, July 16, 1782.

DEAR SIR,— Notwithstanding the defensive professions of the enemy, they seem to be waging an active war against the post-riders. The mail for the Eastward, on Wednesday last, shared the same fate which the Southern mail did a few weeks ago, and, it is said, from the same identical villains. This operation has withdrawn them from their Southern stand, and secured the arrival of the mail, which brings your favor of the fifth instant. I fully concur in the change of cypher which you suggest, and understand the reference for a key-word. I have been in some pain from

[1] From the Madison Papers (1840).

the danger incident to the cypher we now use. The enemy, I am told, have in some instances published their intercepted cyphers. On our first meeting, I propose to prepare, against another separation, a cypher framed by Mr. Livingston on a more enlarged and complicated plan than ours, of which he has furnished me several blank printed copies.

Your computation of the numbers in Virginia tallies exactly with one transmitted by Mr. Jefferson, in an answer to several queries from Mr. Marbois. It is as accurate as the official returns to the Executive of the Militia would admit. His proportion of the fencibles to the whole number of souls is stated precisely as your computation states it.

You will continue your information on the case of the flag, and send me the acts of the Legislature as fast as they are printed. Will you be so good, also, as to obtain from the Auditors a state of the balance due on the principles established by law, and let me know when and how it is to be applied for?—as also what chance there is of obtaining a regular remittance of future allowance?

General Washington and Count Rochambeau met here on Saturday evening. The object of their consultation is among the arcana of war.

A despatch from the Commander in Chief communicated to Congress yesterday a late correspondence between him and General Carleton, principally on the subject of two traitors, who, under cover of a flag, have exposed themselves to arrest in New Jersey, and had sentence of death passed upon them.

General Carleton, among other observations on the subject, says that, "In a civil war, between people of one Empire, there can, during the contest, be no treason at all,"—and asks a passport for General Robinson and Mr. Ludlow to confer with General Washington, or persons appointed by him, and to settle arrangements on this idea. General Washington declines the conference, observing, that the proposed subject of it is within civil resort. Whereupon General Carleton asks—"Am I to apply to Congress to admit persons to conferences at Philadelphia? Can any deputation be sent by Congress to your camp to meet persons appointed by me? Or will you, sir, undertake to manage our common interest?" The drift of all this need not be pointed out to you. As a counterpart to it, the British General proposes, in order to remove all objection to an exchange of soldiers for seamen, that the latter shall be perfectly free, and the former subject to the condition of not serving *against the thirteen Provinces* for one year, within which period he is very sanguine that an end will be put to the calamities of the present war.

The same despatch informs Congress that a party of the enemy have lately made a successful incursion upon the settlements of Mohawk, have re-occupied Oswego, and are extending themselves into the Western country. However little these movements may coincide with a defensive plan, they coincide perfectly with ideas which will not fail to be urged at a pacification.

Messrs. Montgomery and Root returned yesterday

from their Eastern deputation. They have not yet made their report. The former complains that several of the States are appropriating the taxes, which they lay as their quota of the eight millions, to internal uses. He owns that the knowledge he has obtained of the case changed his mind on that head, and that if the ground was to be trodden over again, he should take a very different part in Congress. He adds, that the current opinion is, that a vessel arrived at Quebec brings a Royal Charter for Vermont; that the people there are in much confusion, and many of them disposed to re-unite with New Hampshire. A letter to Mr. Livingston, from Mr. Livermore, corroborates this good news. It imports that a very unexpected turn had taken place in the temper of the people, between the river and the ridge, that they were petitioning New Hampshire to be restored to that State, and that measures would be taken in concert with New York for that purpose. The revolution in the sentiments of Montgomery may be owing, in part, to the new relation in which Pennsylvania stands to Connecticut, which, he says, is governed on this occasion by interested individuals. The controversy between Pennsylvania and Connecticut will, I suppose, be now resumed, and put into a course for decision, the return of Mr. Root having removed the cause which suspended it.

In the beginning of this month, committees were appointed, in pursuance of a previous resolution for such an appointment every half-year, to examine into the proceedings of the several Executive Depart-

ments, and make report to Congress. This plan was adopted not only to discharge the general duty of Congress, and to satisfy their constituents, but also that such reports might shelter, in some degree, faithful officers from unmerited imputations and suspicions, as well as expose to just censure those of an opposite character. * * *

This cypher, I find, is extremely tedious, and liable to errors.

General Carleton, in his letter to General Washington above quoted, says, with respect to Lippencot only, that the court had passed their judgment, and that as soon as the length of the proceedings would admit, a copy should be sent to him. It is inferred that this murderer will not be given up, and consequently a vicarious atonement must be made by the guiltless Asgill.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, July 23, 1782.

DEAR SIR,—I have at length the pleasure of presenting you with certain, though not official, intelligence of the recognition of our Independence by the States General. This event, with other interesting particulars, is contained in the enclosed gazettes. Among its salutary consequences to this country, I hope the people of Virginia will not be inattentive to its influence on the value of its staple, on which it is very probable speculations will be attempted.

[1] From the Madison Papers (1840).

The language and measures of the present Administration will furnish you with copious matter for reflection. If we had received fewer lessons of caution against sanguine expectations, I should, with confidence, explain them by a scheme for a general pacification, and for fathering on their predecessors all the obnoxious conditions which the public distresses may expose them to. If this solution were a just one, it ought, at the same time, to be remembered that the triumph of Rodney may give a new turn to their politics. It appears, from the paper from which the enclosed intelligence is republished, that this event had reached London; that it was received with great rejoicings; but that the public were still haunted with fears for Jamaica. Other articles, not included in the paper herewith sent, are the capture of one, if not two, French seventy-fours, with a number of transports for the East Indies, by Admiral Barrington; the capture of a British frigate, with some transports, by a Dutch ship of war; the capture of the valuable Island of Ceylon, from the Dutch, by Admiral Hughes; and of Negapatam, another of their important possessions, on the coast of Coromandel, with two ships, richly freighted with spices and other oriental productions. Ireland is likely to be indulged in every thing. In addition to a free trade and a free legislation, they have obtained the assent of the Lord Lieutenant to an Act of Parliament for emancipating the Catholics from their shackles on their religious rights, and on their tenures of real property. Your philanthropy will be gratified by my adding, as other proofs of

the progress of light and freedom, the abolition of the inquisitorial jurisdiction in Sicily—the only part of the Neapolitan dominions where it was in force—and the inefficiency of the Pope's visit to Vienna in checking the liberal innovations of the Emperor in his ecclesiastical polity. * * *

General Washington is still here. I have nothing to add to my last on the subject of Lippencot and Asgill.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, August 9, 1782.

DEAR SIR,—Extract of a letter from Carleton and Digby to General Washington, August the second: "We are acquainted, sir, by authority, that negotiations for a general peace have already commenced at Paris, and that Mr. Grenville is invested with full powers to treat with all parties at war, and is now at Paris in execution of his commission. And we are likewise, sir, further made acquainted, that His Majesty, in order to remove all obstacles to that peace which he so ardently wishes to restore, has commanded his ministers to direct Mr. Grenville that the independency of the Thirteen Provinces should be proposed by him, instead of making it a condition of a general treaty; however, not without the highest confidence that the loyalists shall be restored to their possessions, or a full compensation made them for whatever confiscations may have taken place."

[1] From the Madison papers (1840).

This is followed by information that transports are preparing to convey all American prisoners in England to the United States, and a proposition for a general exchange, in which seamen are to be placed against seamen as far as they will go, and the balance in favor of Great Britain to be redeemed by land prisoners—the former to be free, the latter not to serve in war against the Thirteen Provinces for one year. An embarcation is taking place at New York for Charleston, either to reinforce that garrison or replace it.

The preceding letter was published in New York, at the same time it was sent to General Washington. I commit this intelligence to your discretion, making no other remark than that it clearly calls for our watchfulness, at the same time that it flatters our expectations.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, August 13, 1782.

DEAR SIR,—I transmitted to you, a few days ago, by express, the contents of a letter from General Carleton and Admiral Digby to General Washington, announcing the purpose of the British Court to acknowledge the independence of the Thirteen Provinces. Our expected advices on this head from Europe are not yet arrived. A Mr. Blake, an opulent citizen of South Carolina, who came from Great Britain under a passport from Mr. Laurens to New

[1] From the Madison Papers (1840).

York, and thence hither, assures us that the Administration are serious with respect to peace and the independence of this country; that the point, however, was carried in the Cabinet by a majority of two voices only; that their finances are so disordered that a continuance of the war is in a manner impracticable; that the militia at New York have been thanked for their past services, and told explicitly that they would not be wanted in future; that the evacuation of the United States will certainly take place this fall, and that a large number of transports are coming from England to remove the British garrisons, probably to the West Indies; that these transports will contain about two thousand five hundred Germans, who, it is supposed, in case of such an evacuation, will have the same destination; that Carleton told him, and desired him to mention it at large, that he was a real friend to America, and wished her to be powerful, rich, united, and happy, and secure against *all* her enemies; that he also intimated, in the course of conversation, that Canada would probably be given up as a fourteenth member of the Confederacy. You will draw such conclusions from these particulars as you think fit. The gentlemen of South Carolina vouch for the veracity of Mr. Blake. It appears to me much more clear that the Ministry really mean to subscribe to our independence, than that they have renounced the hope of seducing us from the French connection.

The motion for revoking the power given to France has been made again, and pushed with the expected

earnestness, but was parried, and will issue, I believe, in an adoption of your report with a representation thereupon to the Court of France.

Among other means of revenue, the back lands have on several late occasions been referred to, and at length recommended by a Grand Committee to the consideration of Congress. A motion for assigning a day to take up the report was negatived by a small majority. The report has been repeated by the committee, but a second experiment has not been made in Congress. Several of the Middle States seem to be facing about. Maryland, however, preserves its wonted jealousy and obstinacy.

In compiling the evidence of our title, I suppose you will, of course, be furnished with all Mr. Jefferson's lights. I have lately seen a fact stated by him, which shows clearly the ideas entertained by Virginia with respect to her territorial limits subsequent to the resumption of the charter. In a convention between commissioners on the part of the Commonwealth of England, and of the Grand Assembly of Virginia in 1651, by which the latter submit to the new government, it is stipulated that Virginia shall enjoy the ancient bounds and limits granted by the charters of the former Kings, and that a new charter shall be issued from the Parliament against any that shall have entrenched upon the rights thereof

TO EDMUND RANDOLPH.[1]

PHILADELPHIA, August 20, 1782.

DEAR SIR,—In my last I informed you that the motion to rescind the control given to France over the American Ministers had been parried, and would probably end in an adoption of your report. It was parried by a substitute so expressed as to give a committee sufficient latitude in reporting, without implying on the part of Congress a design to alter past instructions. The composition of the committee appointed according well with the object of the substitute, a report was made that the expository report should be referred to the Secretary of Foreign Affairs, to be by him revised and transmitted to the Ministers in Europe, and that the latter should communicate so much thereof as they might judge fit to His Most Christian Majesty. * * *

TO EDMUND RANDOLPH.[1]

PHILADELPHIA, August 27, 1782.

DEAR SIR,—Your favor of the sixteenth came duly to hand yesterday. The hints which it gives with regard to merchandizes imported in returning flags, and the intrusion of obnoxious aliens through other States, merit attention. The latter subject has, on several occasions, been mentioned in Congress, but, I believe, no committee has ever reported a remedy for the abuse. A uniform rule of naturalization ought

[1] From the Madison Papers (1840).

certainly to be recommended to the States. Their individual authority seems, if properly exerted, to be competent to the case of their own citizens. * * *

We are still left without information concerning negotiations in Europe. So long a silence of our Ministers, at so interesting a crisis, grows equally distressing and inexplicable. The French fleet has gone into Boston harbour. The arrival of a British fleet on this coast is reported, but disbelieved by many. The French army is on its way northward from Baltimore. It is to proceed in five divisions, the first of which is to be here about Friday next.

Congress received yesterday a letter from General Washington enclosing one to him from Carleton, with the proceedings of the court-martial in the case of Lippencot. It appears that this culprit did not deny the fact charged upon him, but undertook to justify it as a necessary retaliation, and as warranted by *verbal* orders from the Board of Refugees. The court decided this warrant to be insufficient, but acquitted him on the pretext that no *malicious* intention appeared. Carleton explicitly acknowledges and reprobates the crime, and promises to pursue it in other modes; complaining, at the same time, of irregularity in the step taken by General Washington of selecting and devoting to execution an innocent, and even capitulant, officer, before satisfaction had been formally demanded and *refused.* General Washington seems to lean to the side of compassion, but asks the direction of Congress. What that will be, may, perhaps, be communicated in my next.

The consideration of your territorial report has been resumed. The expedient which was meant to conciliate both sides proved, as often happens, a means of widening the breach. The jealousies announced on the side mentioned in my last were answered with reciprocal jealousies from the other, and the report between the two was falling to the ground, when a commitment, as a lesser evil, was proposed and agreed to.

Mr. Jones and his family arrived on Sunday at Germantown, without halting in this city. Himself, his lady, and little son, were all extremely sick during the whole journey. Mrs. Jones is still very much indisposed, and Mr. Jones considerably so. They do not propose to come into the city till the salubrity of Germantown shall have enabled them to encounter its noise and polluted atmosphere.

I cannot, in any way, make you more sensible of the importance of your kind attention to pecuniary remittances for me, than by informing you that I have for some time past been a pensioner on the favor of Haym Salomon, a Jew broker. Will not the agent of Mr. Morris give a draft, payable to me, for notes payable to the bearer? Or may not the notes be so endorsed as, in case of accident, to prevent payment to another? In either of those cases, a remittance of notes (if they can be procured for me) by the post will be safe. But my present situation renders such a conveyance preferable to delay, even if neither of the foregoing expedients be practicable. Show this paragraph to Mr. Ambler, if you please.

TO EDMUND RANDOLPH.[1]

PHILADELPHIA, September 3, 1782.

DEAR SIR,—You will again be disappointed at the opening of this, since it contains no European intelligence on the subject of peace. Among other reasons which render it astonishing that we should be long uninformed, a material one is, that neither the Court of France, nor our Ministers, can be insensible of the inexpediency of leaving the people at large so exposed to misrepresentations of the enemy. I am happy to find, by your letter of the twenty-fourth, and those received from my other correspondents by yesterday's post, that so cautious an ear is given to every thing which comes from them of a flattering aspect.

The enclosed hand-bill, published a few days ago, will inform you of the steps taken at Charleston towards an evacuation of that place. It is said to have given fresh violence to the fermentations in New York.

Another petition from Kentucky has been received by Congress, contending for the right of Congress to create new States, and praying for an exertion of it in their behalf. A copy will be sent to the Governor by the Delegates. Mr. Lee moved that the original should be referred to him by Congress. The debate which ensued was terminated by an adjournment, and has not been revived.

General Washington writes to Congress that Carleton had concurred in the proposition for a

[1] From the Madison Papers (1840).

general cartel so far as to appoint a Commissioner for that purpose. There is little probability, however, that he has authority to settle such a cartel on the principles which Congress had in view, namely, those of a National Convention. It was thought, by some, that this would put to the test the sincerity of their professions on the subject of independence.

I believe I did not acquaint you, on a former occasion, that the prisoners who had lately returned from captivity in England were discharged, in consequence of an agreement, by Franklin, that a like number of the army of Cornwallis should be given for them. This bold step at first gave much offence. Compassion, however, for the patriotic captive stifled reproaches. They will probably come out yet, unless subsequent events discountenance them.

There are, it seems, three letters in the post-office from Carleton to the Governor, which do not appear to have been licensed, nor is it known how they got into that channel. The curiosity of people on this point is inconceivable.

A very unlucky accident has happened to one of the fleet of our Allies. After it got safe into the harbour of Boston, the unskilfulness or negligence of a pilot suffered a seventy-four to strike on a rock, the wound occasioned by which proved mortal. Most of the furniture has been saved.

I have not yet presented the note to Cohen which you have been so good as to enclose me. The general obstacle to advances here, to be replaced in Virginia, has been the balance in trade against the

latter. This is the current answer to attempts to negotiate drafts on Virginia. My next will inform you of the result of the experiment of your note. If its success depends merely on a confidence in your credit, it will certainly be productive. Mr. Ross has unlimited credit in this place. May it not be made instrumental to our supply? At least it would be well to consult him when an occasion presents. His bills on Whiteside will command any sum that may be wanted.

The French army has been passing through this place for several days northward. The last division will pass to-morrow or the day after. The praises bestowed on their discipline and sobriety in Virginia are repeated here with equal cordiality and justice.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, September 10, 1782.

DEAR SIR,—The loss of the French seventy-four in Boston harbour presented an occasion, which was embraced by Congress, of making a small requital to their Ally for his benevolent exertions in behalf of the United States. They have directed the Agent of Marine to replace the loss by presenting, in the name of the United States, the ship America to the Chevalier de la Luzerne, for the service of His Most Christian Majesty. The *States* were unanimous in this vote. The dissenting members were Bland and Jones, of Virginia.

[1] From the Madison Papers (1840).

The report of the Grand Committee, "that the Western lands, if ceded to the United States, would be an important fund," &c., was the subject of the deliberations of Congress on Thursday and Friday last. After the usual discussion of the question of right, and a proposal of opposite amendments to make the report favor the opposite sides, a turn was given to the debate to the question of expediency, in which it became pretty evident to all parties, that unless a compromise took place, no advantage could ever be derived to the United States, even if their right were ever so valid. The number of States interested in the opposite doctrine rendered it impossible for the title of the United States ever to obtain a vote of Congress in its favor, much less any coercive measures to render the title of any fiscal importance; whilst the individual States, having both the will and the means to avail themselves of their pretensions, might open their land offices, issue their patents, and, if necessary, protect the execution of their plans; without any other molestation than the clamors of individuals within and without the doors of Congress. This view of the case had a manifest effect on the most temperate advocates of the Federal title. Witherspoon moved a set of resolutions recommending to the States which had made no cessions to take up the subject; and to the States whose cessions were not entirely conformable to the plan of Congress, to reconsider their acts; and declaring, that in case of a compliance of the several States claiming the back lands, none of their *determinations* with regard to

private property within their cessions shall be *reversed or altered* without their consent, except in cases falling within the ninth Article of the Confederation. On this motion the report was postponed, and these resolutions committed. The report of the committee on the last article will probably determine the ultimate sense of Congress on the pretensions of the companies.

Every review I take of the Western territory produces fresh conviction, that it is the true policy of Virginia, as well as of the United States, to bring the dispute to a friendly compromise. A separate government cannot be distant, and will be an insuperable barrier to subsequent profits. If, therefore, the decision of the State on the claims of companies can be saved, I hope her other conditions will be relaxed.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, September 11, 1782.

DEAR SIR,—The gentleman by whom I wrote this morning having waited till I had the opportunity of knowing the contents of the despatches from Holland, I take advantage of it to add that we are disappointed by their silence with regard to peace. Those from Mr. Adams relate chiefly to his transactions with the States General. A letter from Mr. Laurens, of the thirtieth of May, informs us that he is returning to the United States, having declined the service of Minister for peace. There is an

[1] From the Madison Papers (1840).

uninteresting part of a letter from Mr. Dana, the first pages of it having been omitted. Mr. Berkley writes, on the thirteenth of July, that the mail from England, subsequent to the resignation of Fox, Burke, &c., breathes war. He confirms the success of the combined fleets against the Quebec, &c., and the sailing of a fleet from the Texel, consisting of eleven sail of the line, five or six frigates, &c., to cruise in the North Seas, and the retreat of Admiral Howe into port. A New York paper of the seventh contains a very interesting conversation on the —— July, in the House of Lords, between Shelburne and the Duke of Richmond, on the subject of ministerial politics, in which the latter assigns his reasons for not following the example of Fox, &c., and both their sentiments with respect to American Independence. The Duke of Richmond seems tolerably well reconciled to it, but Shelburne speaks out his antipathy without depriving himself of the plea of necessity. He professes to adhere, however, to the principles which the Administration carried into office relative to the war against America. I have written this in extreme haste; you will be very sensible of it by its incorrectness.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, September 17, 1782.

DEAR SIR,—My letters, by a private hand, subsequent to the last post, have anticipated the chief

[1] From the Madison Papers (1840).

intelligence from Holland, which I had allotted for the post of this week. I have, however, one important article, which at that date lay under an injunction of secrecy, which has been since taken off. Mr. Adams, we are informed, has contracted with a mercantile house in Holland for the negotiation of a loan of five millions of guilders, or about ten millions of livres, for which he is to give five per cent. interest, and four and a half per cent. for commission and other douceurs and charges, which will raise the interest to about six per cent. The principal is to be discharged in five annual payments, commencing with the tenth year from the date of the loan. When the despatches left Holland, upwards of a million and a half of guilders had been subscribed, and upwards of one million actually received. The contractors, however, make it a condition that none of the money should be paid to the United States until the contract should be ratified by Congress. This ratification passed on Saturday, and its arrival in Holland will place under the orders of Mr. Morris the money which shall then have been procured. How far the amount will, by that time, have been augmented, is uncertain. The contractors seemed to be tolerably sanguine, but not absolutely sure, of getting the whole sum. The partial subscription already secured is a most seasonable relief to the Department of Finance, which was struggling under the most critical difficulties.

In addition to the preceding fund, Congress have been led, by a despair of supplies from the States, to

sue for a further loan of four millions of dollars for the service of the ensuing, and the deficiencies of the present, year. This demand will be addressed, in the first instance, to the Court of France. In case of miscarriage there, an experiment will be made on the liberality of our new friends.

The Legislature of Rhode Island has broke up without according to the impost of five per cent. Congress have apportioned one million two hundred thousand dollars on the States, for the payment of interest to the public creditors. Virginia is rated somewhat lower in this requisition than in the last; not, however, without complaints from some quarters. On these subjects you will have full information from Mr. Lee, who will set off in a few days, he says, for Virginia, in order to be at the October Session.

I should have told you that some progress had been made by Mr. Adams in the Treaty of Amity and Commerce with their High Mightinesses. His propositions, with the remarks and amendments of the College of Admiralty, had been taken *ad referendum.* It is somewhat extraordinary that he should omit to send us a copy of those propositions and remarks. He had taken no steps towards a Treaty of Alliance.

The debates and explanations produced by the resignation of Mr. Fox and his adherents, have unveiled some of the arcana of the British Cabinet. I enclose them for you complete, as far as they have been published here. If there be any sincerity

in the party remaining in office, it would seem that the war is not to be pursued against the United States, nor the independence suffered to be a bar to peace. We shall be able to judge better of this sincerity when the proceedings of Mr. Grenville come to our knowledge.

Mr. Cohen has advanced me fifty pounds of this currency, which, he says, is the utmost that his engagements, and the scarcity of money, will permit. I have given him an order on you for that sum, in favor of his partner at Richmond.

September 17.

On Friday two large French frigates, bringing money, &c. for the French army, and despatches for Congress and the French Minister, came into Delaware Bay. For want of pilots in time, they got entangled among the bars which perplex the navigation of this Bay. The appearance and bearing of the British fleet, after pilots were obtained, rendered it impossible for them to return into the proper channel. The only expedient that remained was to push forward and attempt, under the advantage of high water, to force a passage through the shoal which obstructed them. In this attempt, one of them succeeded. The other stuck in the sand, and was lost. All the public stores, particularly the money on board, have, however, been fortunately saved. The captain and crew, we fear, have fallen into the hands of the enemy. The ship, it is supposed, cannot be raised by them, having been scuttled before they took possession of her. The frigate which escaped is up at

Chester. We expect the despatches will be here to-day. The Marquis Viominil, and twenty or thirty other French officers, have returned in these ships.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, September 24, 1782.

DEAR SIR, — The substance of the despatches brought by the French frigates, mentioned in my last, is, that Mr. Oswald first, and afterwards Mr. Grenville, had been deputed to Versailles on a pacific mission; that the latter was still (twenty-ninth of June) at Versailles; that his proposals, as to the point of independence, were at first equivocal, but at length more explicit; that he associated with the preliminary that the treaty of Paris, of 1763, should be the basis of the treaty in question; that as to this proposition he was answered, that as far as the treaty of '63 might be convenient for opening and facilitating a pacification, it would be admitted as a basis, but that it could not be admitted in any sense that should preclude His Most Christian Majesty from demanding such equitable arrangements as circumstances might warrant, and particularly in the East Indies and on the coast of Africa; that upon these grounds there was at first a prospect that negotiations would be opened with mutual sincerity, and be conducted to a speedy and happy issue; but that the success of the British navy in the West Indies had

[1] From the Madison Papers (1840).

checked the ardor of the Ministry for peace, and that it was pretty evident they meant to spin out the negotiation till the event of the campaign should be decided. You will take notice that this is a recital from memory, and not a transcript of the intelligence.

The frigate L'Aigle, whose fate was not completely determined at the date of my last, we hear, has been raised by the enemy, and carried to New York. Captain De la Touche and the crew were made prisoners. Besides merchandize to a great value, nearly fifty thousand dollars were lost, most of which fell into the hands of the captors. The loss of this ship is to be the more regretted, as it appears that the two were particularly constructed, and destined for the protection of the trade of this country.

Our Ally has added another important link to the chain of benefits by which this country is bound to France. He has remitted to us all the interest which he has paid for us, or was due to him on loans to us, together with all the charges attending the Holland loan ; and has, moreover, postponed the demand of the principal till one year after the war, and agreed to receive it then in twelve successive annual payments. These concessions amount to a very considerable reduction of the liquidated debt. The fresh and large demand which we are about to make on him, will, I fear, be thought an unfit return for such favors. It could not, however, be avoided. The arrears to the army in January next will be upwards of six millions of dollars. Taxes cannot be relied on. Without money, there is some reason to surmise that it may

be as difficult to disband an army as it has been to raise an army.

My last informed you that Mr. Laurens had declined serving in the commission for peace. His proceedings, during his captivity, as stated by himself, are far from unexceptionable. Congress, nevertheless, were prevailed on to assent to a resolution informing him that his services could not be dispensed with. A few days after this resolution had passed, several numbers of the Parliamentary Register were received at the Office of Foreign Affairs, in one of which was published the enclosed petition. The petition was introduced by Mr. Burke, was a subject of some debate, and finally ordered to lie on the table. The extreme impropriety of a Representative of the United States addressing that very authority against which they had made war, in the language of the address, determined Mr. Jones and myself to move that the resolution above referred to should not be transmitted until the further order of Congress. In support of the motion it was observed, that however venial the fault might be in a private view, it evidently rendered Mr. Laurens no longer a fit depository for the public dignity and rights, which he had so far degraded; and that if Congress should reinstate him against his own desire, and with this fact before their eyes, it would seem as if they meant to ratify, instead of disowning, the degradation. The motion was opposed on two grounds — first, that the character of Mr. Laurens, and the silence of his letter, overbalanced the testimony of the Register, and

rendered the fact incredible; secondly, that the fact, although faulty, ought to have no influence on the public arrangements. The first objection was the prevailing one. The second was abetted by but few. Several professed a readiness to renounce their friend, in case the authenticity of the paper should be verified. On the question there were five noes, three ayes, two divided, two half votes aye. The petition had been published some time ago at New York, and had made some noise in New Jersey, but was ultimately regarded as spurious. There are so many circumstances relating to this gentleman during his captivity, which speak a bias towards the British nation, and an undue cordiality with its new leaders, that I dread his participation in the work of peace.

Your favor of the seventh, which had not arrived last post-day, came a few days afterwards, the post having been detained by sickness. The subsequent one came to hand yesterday in due time. The expedient of drawing bills here on funds in Virginia, even the most unquestionable, has been often tried by us, but in vain. The balance is so much against Virginia that no one wants money there, and the evil will increase as the prospect of peace retires. Your credit with Mr. Cohen, which procured me fifty pounds, with two hundred dollars transmitted by Mr. Ambler, have been of much service to me, but I am relapsing fast into distress. The case of my brethren is equally alarming.

As some of Mr. Laurens's friends strenuously maintain that the petition enclosed is spurious, I

would not wish it to be made public through me until the matter be ascertained, or he be present to explain it.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, September 30, 1782.

DEAR SIR, — The remittance to Colonel Bland is a source of hope to his brethren. I am almost ashamed to reiterate my wants so incessantly to you, but they begin to be so urgent that it is impossible to suppress them. The kindness of our little friend in Front street, near the coffee-house, is a fund which will preserve me from extremities, but I never resort to it without great mortification, as he obstinately rejects all recompense. The price of money is so usurious, that he thinks it ought to be extorted from none but those who aim at profitable speculations. To a necessitous Delegate he gratuitously spares a supply out of his private stock.

No addition has been made to our stock of intelligence from Europe since the arrival of the French frigates. Some letters from the Marquis de la Fayette and others have since come to hand, but they are all of the same date with the despatches then received. One of the Marquis's paragraphs, indeed, signifies the tergiversation of Mr. Grenville, which had been only in general mentioned to us before. On the communication made by this gentleman to the Count de Vergennes of the object of his mission,

[1] From the Madison Papers (1840).

he proposed verbally the unconditional acknowledgment of American Independence as a point to which the King had agreed. The Count de Vergennes immediately wrote it down, and requested him to put his name to the declaration. Mr. Grenville drew back, and refused to abide by any thing more than that the King was *disposed* to grant American Independence. This illustrates the *shade* of difference between Shelburne and Fox.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, October 8, 1782.

DEAR SIR, — Your favor of the twenty-seventh of September came to hand yesterday, and is a fresh instance of the friendly part you take in my necessities. In consequence of the hint in your last of a pressing representation to the Executive, our public letter of last week touched on that subject, but the letter received yesterday from the Governor, which seems to chide our urgency, forbids much expectation from such an expedient. The letter from Mr. Ambler enclosed for me a second bill on Mr. Holker, for two hundred dollars, which very seasonably enabled me to replace a loan by which I had anticipated it. About three hundred and fifty more (and not less) would redeem me completely from the class of debtors.

I omitted, in my last, to inform you that the Swedish Minister at Versailles had announced to Dr.

[1] From the Madison Papers (1840).

Franklin the wish of his King to become an Ally of the United States, and that the treaty might be negotiated with the Doctor in particular. A plenipotentiary commission has, in consequence, issued for that purpose. The model transmitted by Congress is pretty analogous to the treaty with France, but is limited in duration to fifteen years.

## TO EDMUND RANDOLPH. [1]

PHILADELPHIA, October 15, 1782.

DEAR SIR,—The offensive paragraph in the correspondence of Mr. L. with Mr. P., spoken of in your favor of the fifth, was, as you supposed, communicated to me by Mr. Jones. I am, however, but very imperfectly informed of it.

We have not yet received a second volume of the negotiations at Versailles; nor any other intelligence from Europe, except a letter from Mr. Carmichael, dated about the middle of June, which is chiefly confined to the great exertions and expectations with respect to Gibraltar. Whilst the siege is depending, it is much to be apprehended that the Court of Madrid will not accelerate a pacification.

Extract of a letter from Sir Guy Carleton to General Washington, dated New York, September twelfth, 1782.

"Partial though our suspension of hostilities may be called, I thought it sufficient to have prevented those cruelties in the Jerseys (avowed) which I have

[1] From the Madison Papers (1840).

had occasion to mention more than once; but if war was the choice, I never expected this suspension should operate further than to induce them to carry it on as is practised by men of liberal minds. I am clearly of opinion with Your Excellency, that mutual agreement is necessary for a suspension of hostility, and, without this mutual agreement, either is free to act as each may judge expedient; yet I must, at the same time, frankly declare to you, that being no longer able to discern the object we contend for, I disapprove of all hostilities both by sea and land, as they only tend to multiply the miseries of individuals, when the public can reap no advantage from success. As to the savages, I have the best assurances, that from a certain period, not very long after my arrival here, no parties of Indians were sent out, and that messengers were despatched to recall those who had gone forth before that time; and I have particular assurances of disapprobation of all that happened to your party on the side of Sandusky, except so far as was necessary for self-defence."

It would seem, from this paragraph, that the insidious object of a separate convention with America was still pursued.

The symptoms of an evacuation of New York became every day less apparent. Our next intelligence from Charleston will probably confirm our expectations as to that metropolis.

TO EDMUND RANDOLPH.[1]

PHILADELPHIA, October 22, 1782.

DEAR SIR,—By the vessel spoken of in my last, Congress have received a letter from Mr. Adams, dated Hague, August the eighteenth, which enclosed a copy of the plenipotentiary commission issued to Mr. Fitzherbert, the British Minister at Brussells. The following skeleton of the commission will give you an idea of its aspect towards America:

"Georgius tertius, etc., omnibus, etc., salutem. Cum, belli incendio jam nimis diu diversis orbis terrarum partibus flagrante, in id quam maxime incumbamus ut tranquillitas publica, tot litibus, etc., rite compositis, reduci, etc., possit, — cumque eâ de causa, virum quendam tanto negotio parem, ad bonum fratrem nostrum, Regem Chris^mum^ mittere decrevimus: Sciatis igitur quod nos, fide, etc. Alleini Fitzherbert, etc., confisi, eundem nominavimus, etc., nostrum Plenipotentiarum, dantes, etc., eidem omnem potestatem, etc., nec non mandatum generale pariter ac speciale, etc., in aula prædicti bon. frat. Reg. Chris^mi^ pro nobis et nostro nomine, una cum *Plenipotentiariis, tam Celsorum et Præpotentium Dominorum, ordinum Generalium Fœderati Belgii, quam quorumcunque Principum et Statuum quorum interesse poterit*, sufficiente auctoritate instructis, tam singulatim ac divisim quam aggregatim ac conjunctim, congrediendi, etc., atque cum ipsis de pace, concordia, etc., præsentibus, etc. etc. In palatio nostro, etc., 24 Julii, 1782.

[1] From the Madison Papers (1840).

The only further circumstance contained in his letter, relative to the business of a pacification, is the appointment of a Plenipotentiary by the States General, who was to set out for Paris in about three weeks after the date of the letter.

The States of Holland and West Friesland had determined upon the proposed treaty of commerce, and Mr. Adams expected to have a speedy conference with the States General, in order to bring it to a conclusion.

The Secretary of War lately communicated to Congress an extract of a letter from General Washington of a very unwelcome tenor. It paints the discontents of the army in very unusual colors, and surmises some dangerous eruption, unless a payment can be effected within the present year. The Secretary is gone to head-quarters at the request of the General. How far their joint precautions will calm the rising billows, must be left to the result.

Congress have reduced the estimate for the ensuing year to six millions of dollars, and the requisitions on the States, for the present, to one-third of that sum. A call for the residue is suspended till the result of the applications for loans shall be known.

The combined fleets have certainly gone to support the siege of Gibraltar. The Dutch has returned to the Texel. According to the preconcerted plan, it was to have proceeded North, after disposing of its convoy, and have reinforced the combined fleet. The disappointment is traced up to the machinations of the Prince of Orange, whose attachment to the

enemies of the Republic seems to be fatal to all her exertions. For other particulars taken from foreign gazettes, I refer to those herewith enclosed, and those enclosed to Mr. Ambler.

## TO EDMUND RANDOLPH.[1]

PHILADELPHIA, October 29, 1782.

DEAR SIR,—Some intelligence has been received from the frontiers of New York, which revives the apprehensions of further inroads from Canada, and co-operation on the part of the Vermonters. The tenor of Carleton's letter to General Washington on this subject, and other circumstances, render this article at least extremely doubtful.

The British fleet at New York has been busy in preparing for sea, and will probably soon depart from that station. The West Indies most naturally occur as the object of its destination. It is said their preparations have been much expedited by the most direct and undisguised supplies from the people of New Jersey.

Congress have been occupied for several days past with the case of Lippencot, referred to them by General Washington. On one side it was urged, that the disavowal and promises by the British Commander, the abolition of the obnoxious board of refugees, and the general change of circumstances, rendered retaliation unnecessary and inexpedient. On the other side it was contended, that a departure

[1] From the Madison Papers (1840).

from the resolution so solemnly adopted and repeated by General Washington, with equal solemnity ratified by Congress, would be an indelible blot on our character; that after the confessions on the part of the enemy of the deed complained of, a greater inflexibility on our part would be looked for; that after such confessions, too, the enemy would never suffer the innocent to perish, if we persisted in demanding the guilty; and finally, that if they should suffer it, the blood would be on their heads, not on ours. No definitive resolution has yet passed on the subject. All the intermediate steps have been very properly entered on the secret journals.

General Lincoln has just returned from the army. He has not yet made a report to Congress. He says, I understand, that his visit has had a very salutary operation, but that some pay must be found for the army. Where it is to be found, God knows. The state of the public finances has already compelled the Superintendant to give a discharge to the former contractors, and to accept of a new contract, by which thirty per cent. is added to the price of a ration in consideration of credit for three months. He has, on this occasion, written a pressing exhortation to the States, which, I suppose, is accessible to you.

Mr. Carroll moved, yesterday, a resolution for accepting the territorial cession of New York. It stands the order for to-day. I regret much, on this occasion, the absence of Mr. Jones.

# DEBATES

IN THE

# CONGRESS OF THE CONFEDERATION,

FROM NOVEMBER 4TH, 1782, TO FEBRUARY 13TH, 1783.

MAD. MSS.

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## IN CONGRESS, NOVEMBER 4TH 1782, MONDAY.

Elias Boudinot was chosen President by the votes of N. Hampshire represented by John Taylor Gilman and Phillips White—Rhode Island by Jonathan Arnold and David Howell—Connecticut by Benjamin Huntington & Eliphalet Dyer—N. Jersey by Elias Boudinot & John Witherspoon—Pennsylvania by Thomas Smith George Clymer, and Henry Wynkoop—Delaware by Thomas McKean & Samuel Wharton—Maryland by John Hanson, Daniel Carroll & William Hemsley. The votes of Virg[a] represented by James Madison & Theodorick Bland & of S. Carolina represented by John Rutledge Ralph Izard, David Ramsay, & John Lewis Gervais, were given to Mr. Bland—The vote of N. York represented by James Duane and Ezra L'Hommedieu to Abner Nash. The vote of N. C. by Abner Nash, Hugh Williamson & William Blount to John Rutledge. Massachus[ts] having no Delegate but Samuel Osgood had no vote. Georgia had no Delegate.

A Letter dated Oc[r] 30— 1782 from Ge[l] Washington, was read, informing Congress of his putting the army into Winter Quarters, & of the sailing of 14 ships of the line from N. York, supposed to be for the W. Indies & without Troops.

d[o] July 8 from Mr. Carmichael at St. Ildefonso informing Congress of the good effect in Europe of the rejection of the proposal of Carleton, by Congress & the States; that the King of Spain speaking of the news at table praised greatly the probity of the

Americans, raising his voice in such a manner that all the foreign Ministers might hear him. Mr. Carmichael adds that He had discovered that the Imperial & Russian Ministers by directions from their Courts had renewed their offered mediation to His M. C. M. and that he suspected England was at the bottom of it.— Quere.

do. Nants Sep$^{r}$ 5. from M$^{r}$ Laurens, notifying his intention to return to America; that being so advised by his friends he had applied to the C$^{t}$. of London for a passport via Falmouth; that Cornwallis had interested himself therein & that the passport had been promised.[1]

[1] November 5, 1782, Madison wrote to Edmund Randolph (italics stand for cypher):

"My last informed you that a proposition had been made in Congress for accepting the territorial cession of N. York. The paper enclosed contains the proceedings which ensued. The acceptance of this cession *singly* met with a negative from Virginia for obvious reasons. In the first place such a measure, instead of terminating all controversy as to the western country, the object proposed by the original plan, introduces new perplexities. And in the 2$^{d}$ place, an assent from us might be hereafter pleaded as a voluntary acceptance of the U. States in the room of N. York, as litigants against Virginia.

"On the subsequent motion you will find Virg$^{a}$ divided. The proviso expressed in this motion if referred to the territory retained by N. York appeared to me to be at least nugatory, or rather to imply that a Resolution of Congress might operate towards depriving another State of the benefits of the Confederation; and if referred to the territory ceded by N. Y. to imply that the 9$^{th}$ art: was the constitutional rule of deciding controversies as well where the U. S. as where a particular state were the party. All that Congress could, as I supposed, have properly done, would have been to guard against any biass on future decisions by declaring that their acceptance of the cession of N. Y. was not to be considered as expressing any opinion as to the rightful claims or limits of that State. But I did not feel myself at liberty to substitute such a proposition because it militated against the guaranty required by Virg$^{a}$ and would have prejudged that condition of her cession.

"The success of *the Middle States* in obtaining the cession of N. Y. has given great encouragement; and they are pursuing steadily the means of availing themselves of the other titles. That of Connecticut is proposed for the next object. Virginia will be postponed for the last. By *enlisting the two preceding* into *their party they hope to render their measures more effectual with respect to the last.*

"Besides the effect which may be expected from this *coalition with New York* on *territorial questions in Congress* it will I surmise prove very *unfriendly to the*

TUESDAY NOV.R 5.

A Resolution passed authorizing Genl Washington to obtain the exchange of 2 foreign officers notwithstanding the Resoln of the 16 of Oct.r declaring that Congress will go into no partial

*pretentions of Vermont.* *Duane* seems not un*apprized of the* advantage which *New York has gained*, and is already *taking measures for a speedy vote on that question.* Upon the *whole New York has* by a *fortunate* coincidence of circumstances, *or by skilful management or by both* succeeded *in a very important object by ceding a claim which was tenable* neither *by force nor by right; she has acquired with Congress the merit of liberality* rendered the *title to her reservation more respectable and* at least dampt *the zeal with which Vermont has been abetted.* If you should be *surprized that* these considerations did not *dissuade Connecticut from an unqualified acceptance of the cession of New York* you will only be *affected* as others *were at the time.* The truth is *they were surprized at it themselves after it was too late and* would gladly *have revoked their error.*

"You were also informed in my last of the situation in wch the affair of Lippencot remained. In the midst of our *perplexities* a letter arrived from Genl Washington enclosing an intercession from the Count de Vergennes in favour of the life of young Asgill, founded on a most pathetic and importunate memorial from his mother. The Ct writes to Genl. Washington, as he says not in the quality of a public minister, but of a man who feels the force of Mrs Asgills supplications. He backs his intercession however, with the desire of the King & Queen who were much affected with the memorial, observes that, altho' Asgill is no doubt a prisoner to the U. States, yet as he became such by an event to which the arms of his Majesty contributed, the interest he takes in behalf of this officer, is the more admissible, & signifies that if the British commander should not in this instance fully comply with the demands of Justice there is reason to believe that future instances of barbarity will be presented.

"The judgment *formed of* this *intercession by* different *members is very different.* All *agree that* retaliation *cannot be executed in the face of it, but some* are of *opinion* that *it* luckily *affords and ought to be made the ground of* retreat *from that measure; whilst others suppose that our honour will be more wounded by such a public exposition* both *of our obsequiousness to France and of her disapprobation of our views than by a retreat of ourselves on the ground of* Carleton's *promise of continued pursuit of the* murderer. *Some fear also that an omission in our act of the wish* expressed *by the King & Queen of France* may *give umbrage. Others again* infer from the circumstance *of the letter from the count being addressed to Genl. Washington not to Congress and in his private not official quality that a public notice of it can not be expected and* that *a private explanation by the secretary of* foreign affairs *to the minister of France will be as much as will be proper.*

"The *minister also* received *an instruction to interest himself in the affair and had even* prepared *a memorial to Congress relative to it. Having discovered*

exchanges until a general cartel be settled *on national* principles. This measure passed without due consideration by the votes of N. H., R. I., Cont: Del: Maryland N. C. & S. C. On the motion

*however the diversity of* sentiments *prevailing in Congress and being apprehensive* that *his interposition* might render *the case more perplexing and* possibly *be not treated with due notice in the final act of Congress he has very prudently desisted from his purpose.*

"Untill Congress shall have come to some decision with respect to the notice to be taken of *the intercession above mentioned* I would not wish it to be *generally* spoken of from this letter.

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"A letter from Carmichael dated 8 July, says that the Resolutions of Congress & the States against separate negociations with the new British Ministry were exceedingly applauded at the Spanish court; and that he had discovered that the Imperial & Russian Ministers had renewed an offer of the mediation of their Courts to Spain. The silence of our other ministers in letters of later date renders the latter article very doubtful.

"A letter of the 5th of Sept. from M. Laurens at Nantz repeats his purpose to return to America; adding that the risk of capture & and the advice of his friends had led him to apply to the Court of London for a passport via Falmouth & N. York to Philad.a that L.d Cornwallis had interested himself in his case, and that the passport was to be transmitted to him. It was uncertain whether he was to embark this fall, or wait till the Spring. *Unless the* embarkation *from a British port was more* [necessary] *than I am aware,* a *direct passport from France* would *in my view have been more eligible.*

"The army we are informed by a letter from Gen.l Washington of the 30th ult. are going into their winter cantonments. Part of the British fleet, consisting of 14 ships of the line, 1 of 40 guns, 7 frigates & 14 transports sailed from N. York on the 26th supposed to be bound to the W. Indies, and to have no troops on board. Two vessels were dispatched it is said for Charlestown immediately after the arrival of the last packet, for the purpose of countermanding the evacuation.

"M.r Jones has recovered rapidly within a few days past & has once more got about.

"Your favor of the 26th past was duly received yesterday. I am anxious for the new Cypher which it promises as well for my use as yours; and for the same reasons. I conclude from your silence as to my late communications in L—ls Cypher that the key I sent you some time ago answered its purpose."—*Mad. MSS.*

The affair of Asgill alluded to above was this:

Captain Huddy, commanding a body of troops in Monmouth County, N. J., was captured by a band of refugees and hung in New York by Captain Lippencot, of the British army. In retaliation, Captain, afterwards Sir Charles, Asgill, a prisoner in Washington's hands, was chosen by lot to suffer the same fate.

of Mr. Osgood it was reconsidered in order to refer the case to the Sec$^{y}$ of War & Gen$^{l}$ Washington to take order. By Mr. Madison opposition was made ag$^{st}$ any partial exchange in the face of the solemn declaration passed on the 16 Oc$^{r}$,[1] as highly dishonorable to Congress, especially as that declaration was made in order to compel the enemy to a national convention with the U. S. All exchanges had been previously made on the part of the former by the Military authority of their Generals. After the letter of Genl. Carleton & Admiral Digby notifying the purpose of the British King to acknowledge our Independence, it was thought expedient by Congress to assume a higher tone. It was supposed also at the time of changing this mode that it would be a test of the enemy's sincerity with regard to Independence. As the trial had been made & the British Coñander either from a want of power or of will had declined treating of a cartel on national ground, it would be peculiarly preposterous & pusilanimous in Congress to return to the former mode. An adjournment suspended the vote on the question for referring the case to the Se$^{y}$ & General to take order.

WEDNESDAY, NOV$^{R}$ 6TH.

No Congress.

THURSDAY, NOV$^{R}$ 7.

On the reconsideration of the Resol: for exchanging the two for: officers Its repeal was unanimously agreed to.

A motion was made by Mr. Osgood to assign an early day for filling up the vacancy in the Court of Appeals. It was opposed on the principle of economy, and the expedient suggested by Mr. Duane, of empowering a single Judge to make a Court *until the public finances would better bear the expense.* In favor of the motion it was argued 1. that the proceedings of the Court were too

[1] "*Resolved*, That Congress will not go into any partial exchange of prisoners of war in future, but will take the most effectual measures in their power, for the safe keeping of all prisoners of war, until a general cartel on liberal and national principles be agreed to and established."—*Journals of Congress*, iv., 90.

important to be confided to a single Judge. 2. that the decisions of a single judge would be less satisfactory in cases where a local connection of the judge subsisted with either of the parties. 3. that a single judge would be more apt by erroneous decisions to embroil the U. S. in disputes with foreign powers. 4. that if there were more than one Judge, & one formed a court, there might at the same time be two interfering jurisdictions, and that if any remedy could be applied to this difficulty, the course of decisions would unavoidably be less uniform, & the provision of the confederation for a court of universal appellant Jurisdiction so far contravened. 5. as there was little reason to expect that the public finances wd. during the war be more equal to the public burdens than at present, and as the cases within the cognizance of this court would cease with the war, the qualification annexed to the expedient ought to have no effect. The motion was disagreed to & a committee which had been appointed to prepare a new ordinance for constituting the Court of Appeals, was filled up & instructed to make report.—on the above motion an opinion was maintained by Mr. Rutledge that as the court was according to the ordinance in force to consist of three Judges any two of whom to make a court, unless three were in actual appointment the decisions of two were illegal.

Congress went into the consideration of the report of the Committee on the case of Capt. Asgill the British officer allotted to suffer retaliation for the murder of Capt. Huddy. The report proposed

"That considering the letter of the 29th of July last from the Count de Vergennes to Genl. Washington interceding for Capt. Asgill, the Commander-in-Chief be directed to set him at liberty."

Previous to the receipt of this letter from the Count de Vergennes Congress had been much divided as to the propriety of executing the retaliation, after the professions on the part of the British commanders, of a desire to carry on the war on humane principles, and the promises of Sr G. Carleton to pursue as effectually as possible the real authors of the murder; some supposing that these circumstances had so far changed the ground that Congress ought to recede from their denunciations, others supposing

that as the condition of the menace had not been complied with, and the promises were manifestly evasive, a perseverance on the part of Congress was essential to their honor & that moreover it would probably compel the enemy to give up the notorious author of the confessed murder. After the receipt of the letter from the Count de Vergennes, Congress were unanimous for a relaxation. Two questions however arose on the report of the committee. The 1st was on what considerations the discharge of Cap. Asgill ought to be grounded. On this question a diversity of opinions existed. Some concurred with the committee in resting the measure entirely on the intercession of the French Court: alledging that this was the only plea that could apologize to the world for such a departure from the solemn declaration made both by Congress and the Commander in Chief. Others were of opinion that this plea if publicly recited would mark an obsequiousness to the French Court and an impeachment of the humanity of Congress, which greatly outweighed the circumstance urged in its favor; and that the disavowal of the outrage, by the British Genl. and a solemn promise to pursue the guilty authors of it, afforded the most honorable ground on which Congress might make their retreat; others again contended for an enumeration of all the reasons which led to the measure; lastly others were against a recital of any reasons & for leaving the justification of the measure to such reasons as would occur of themselves. This last opinion after considerable discussions prevailed, and the Resol. left as it stands on the Journals. The 2d question was whether this release of Cap: Asgill should be followed by a demand on Gel Carleton to fulfil his engagement to pursue with all possible effect the authors of the Murder.

On one side it was urged that such a demand would be nugatory after the only sanction which could enforce it had been relinquished; that it would not be consistent with the letter of the Count de Vergennes which solicited complete oblivion, and that it would manifest to the public a degree of confidence in British faith which was not felt and ought not to be affected.

On the opposite side it was said that after the confession & promise of justice by Gel Carleton, the least that could be done by Gel Washington would be to claim a fulfilment; that the

intercession of the C^t^ de Vergennes extended no farther than to prevent the execution of Capt: Asgill, and the substitution of any other innocent victim ; and by no means was meant to shelter the guilty ; that whatever blame might fall on Congress for seeming to confide in the promises of the enemy, they would be more blamed if they not only dismissed the purpose of retaliating on the innocent, but at the same time omitted to challenge a promised vengeance, on the guilty, that if the challenge was not followed by a compliance on the part of the enemy, it would at least promulge and perpetuate, in justification of the past measures of Congress, the confessions & promises of the enemy on which the challenge was grounded ; & would give weight to the charges both of barbarity and perfidy which had been so often brought ag^st^ them.

In the vote on this question, 6 States were in favor of the demand & the others either divided or against it.

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FRIDAY, NOV^R^ 8.

The preceding question having been taken again, on a further discussion of the subject. There were in favor of the demand, N. H., R. I., N. Y. P^a^ Del. Mary^d^. Virga. & of the other States some were divided.

A motion was made by Mr. Rutledge of S. C. "That the Comder in chief & of the S. Department be respectively directed whenever the Enemy shall commit any act of cruelty or violence contrary to the laws & usage of war on the Citizens of these States to demand adequate satisfaction for the same, and in case such satisfaction shall not be immediately given, but refused or evaded under any pretext whatsoever, to cause suitable retaliation to be forthwith made on British officers without waiting for directions from Congress on the subject."

When this motion was first made it was espoused by many ; with great warmth in particular by the Delegates of N. C & S. C., as necessary to prevent the delays & uncertainties incident to a resort by the Military Commanders to Congress, and to convince

the enemy that notwithstanding the dismission of Capt: Asgill the general purpose of retaliation was firmly retained.[1]

Against the motion it was objected 1. that the time & place in which it stood would certainly convey an indirect reprehension of Gen[l] Washington for bringing before Congress the case of Capt: Asgill & Huddy: 2. that it manifested a distrust in Congress which however well founded it might be with respect to retaliation ought not to be proclaimed by themselves. 3. that political & national considerations might render the interference of the Supreme authority expedient, of w[ch] the letter from the C[t] de Vergennes in the late case furnished an instance; that the resort of the Military Commanders to the Sovereign for direction in great and difficult cases, such as those of retaliation would often prove, was a right of which they ought not to be deprived; but in the exercise of which they ought rather to be countenanced. These objections reduced the patrons of the motion to the Delegates of N. C. & S. C. alone or nearly so. In place of it the declaratory motion on the Journals was substituted. This again was objected to as implying that in the cases of retaliation taken up by the Mil[y] commanders, they had proceeded on doubtful authority. To remove this objection, the amendment was proposed, limiting the preamble to the single act of discharging Capt: Asgill. This however was not entirely satisfactory because that particular act could have no constructive influence on the Reputed authority of the Generals. It was acceded to by the votes of several who were apprehensive that in case of rejecting it, the earnestness of some might obtrude a substitute less harmless, or that the Resolution might pass without the preamble, & be more offensive to the Commander in Chief. The first apprehension was the prevailing motive with many to agree to the proposition on the final question.

[1] "We have rec[d] no intelligence from Europe since my last. I have inclosed to the Gov[r] a copy of a late letter from Carlton, which breathes a much less conciliatory spirit than his preceding correspondence. No steps have been taken by Congress as to the cessions since the acceptance of that of N. York. Asgill is directed to be set at liberty, without any special reason being assigned for it, and Gl Washington instructed to call upon G[l] Carlton to fulfil his promise to pursue the guilty. If the interval between this & the post produces any thing, you shall then have it."—*Madison to Edmund Randolph*, Nov. 10, 1782. *Mad. MSS.*

This day a letter was rec$^{d}$ from Ge$^{l}$ Washington, inclosing one of the 25 of Oc$^{r}$ from S$^{r}$ G. Carleton relative to the demand made on him for a liquidation of acc$^{ts}$ and payment of the balance due for the maintenance of Prisoners of war, in which the latter used an asperity of language so much the reverse of his preceding correspondence that many regard it as portending a revival of the war against the U S.

SATURDAY & MONDAY.

No Congress.

TUESDAY 12 NOV$^{R}$

The reappointment of M$^{r}$ Jefferson as Minister Plenipo : for negotiating peace was agreed to unanimously and without a single adverse remark.[1] The act took place in consequence of its being

[1] Madison sent the resolution to Edmund Randolph November 12th :

"Resolved

"That the appointment of T. Jefferson Esq$^{r}$ as a Minist : for nego : peace made on the day be & the same is hereby renewed : & that on his acceptance thereof he be invested with all the powers & subject to all the instructions which have been or may be issued by Congress to the Min's [torn] for nego : peace, in the same manner as if his original app$^{t}$ had taken-effect.

"This Resolution passed a few minutes ago I sent you a line for the post but I fear too late This catches Doc$^{r}$ Tucker in the street proceeding by the State House. You will let it be known to M$^{r}$ J. as quickly as secrecy will admit. An official notification will follow by the first oppy. This will prepare him for it : It passed unan: & with$^{t}$ a single remark adverse to it. On this subj$^{t}$ again by the post next week or by Col: B. if earlier

Adieu"

November 14th, he wrote again :

"By a line dropped from the post, tho' perhaps too late to get into the mail, and by another by D$^{r}$ Tucker who soon followed, I informed you of the reappointment of M$^{r}$ Jefferson, that the act passed unanimously & without even an unfavorable remark. Col. Bland by whom this goes, conveys an official notification from M$^{r}$ Livingston under cover to Col. Monroe. As you will probably in consequence of it, if not before have an interview with M$^{r}$ [J.], no observations on the subject are necessary. I confide in his acceptance and flatter myself with the pleasure of soon seeing him in Philad$^{a}$

"I inclose you the late papers which are very barren, but contain everything which falls under the head of news." *Mad. MSS.*

suggested that the death of Mrs J. had probably changed the sentiments of Mr J. with regard to public life, & that all the reasons which led to his original appointment still existed and indeed, had acquired additional force from the improbability that Mr. Laurens would actually assist in the negotiation.

"A motion was made by Mr. Rutledge declaring that when a matter was referred to any of the departments *to take order*, it was the sense & meaning of Congress that the same should be carried into execution." On this motion some argued that such reference amounted to an absolute injunction, others insisted that it gave authority, but did not absolutely exclude discretion in the Executive Departments. The explanation that was finally acquiesced in as most rational & conformable to practice was that it not only gave authority, but expressed the sense of Congress that the measure ought to be executed: leaving it so far however in the discretion of the Executive Department, as that in case it differed in opinion from Congress it might suspend execution & state the objections to Congress that their final direction might be given. In the course of debate it was observed by Mr. Madison that the practice of referring matters to take order, especially where money was to be issued, was extremely exceptionable inasmuch as no entry of such proceedings was made on the Journals, but only noted in a memorandum book kept by the Secretary, and then sent to the Department with the reference to take order indorsed by the Secy. but not signed by him. So that the transaction even where public in its nature, never came before the public eye, & the Dept was left with a precarious voucher for its justification. The motion was in the end withdrawn, the mover alledging that as he only aimed at rendering an uncertain point clear, & this had been brought about by a satisfactory explanation, he did not wish for any Resolution on the subject.

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WEDNESDAY 13 NOVr

No Congress.

THURSDAY 14 NOV$^{R}$

The proceedings were confined to the Report of the Committee on the case of Vermont entered on the Journals. As it was notorious that Vermont had uniformly disregarded the Recommendation of Congress, of 1779, the Report which ascribed the evils prevalent in that district to a late act of N. Y. which violated that recommendation was generally admitted to be unjust & unfair. Mr. Howel was the only member who openly supported it. The Delegates from N. Y. denied the fact that any violation had been committed on the part of that State. The temper of Congress on this occasion as the yeas & nays shew, was less favorable to Vermont than on any preceding one,—the effect probably of the territorial Cession of N. York to the U. S. In the course of the debate Mr. Howel cited the case of Kentucky as somewhat parallel to that of Vermont, said that the late creation of a separate Court by Virg$^{a}$ for the former resembled the issuing of Commissions by N. Y. to the latter that the jurisdiction would probably be equally resisted & the same violences would follow as in Vermont. He was called to order by Mr. Madison. The President & the plurality of Congress supported and enforced the call.

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No Congress till
Nov$^{r}$ Monday 18 } The Journals sufficiently explain the pro-
Tuesday 19 } ceedings of those days.[1]

[1] Under date of November 19th, Madison wrote to Randolph:

"The prospect derived from the impost of the five Per C$^{t}$ seems to be pretty thoroughly blasted by a unanimous & final veto by the Assembly of Rhode Island. This State, by its Delegates (who fully represent the aversion of their constituents to the impost) voted in Congress That 6 Millions of Dollars were necessary for the year '83, that 2 Millions were as much as the States could raise & as ought to be required by Congress, and that applications for loans in Europe ought to be relied on for the residue. And yet they absolutely refuse the only fund which could be Satisfactory to lenders. The indignation against this perverse sister is increased by her shameful delinquency in the constitutional requisitions.

"The tribunal erected for the controversy between Connecticut and Penns$^{a}$ was I hear to be opened to-day. The Judges who compose it are Mr. Whipple of

WEDNESDAY NOV.R 20.TH

Congress went into consideration of the Report of A Committee consisting of Mr. Carrol, Mr. McKean & Mr. Howel on two Memorials from the Legislature of Pennsylvania. The Memorials imported a disposition to provide for the Creditors of the U. S. within the State of Penn.a out of the Revenues allotted for Congress, unless such provision could be made by Congress. The Report as an answer to the Memorials acknowledged the merit of the public Creditors, professed the wishes of Congress to do them justice; referring at the same time to their recommendation of the Impost of 5 Per C.t, which had not been acceded to by all the States; to the requisition of 1,200,000 D.rs, for the payment of one year's interest on the public debt, and to their acceptance of the territorial cession made by N. Y. After some general conversation in which the necessity of the Impost as the only fund on which loans could be expected & the necessity of loans to supply the enormous deficiency of taxes, were urged, as also the fatal tendency of the plan intimated in the Memorials, as well to the Union itself, as to the system actually adopted by Congress, the Report was committed.[1]

N. Hampshire, Mr. Arnold of Rhode Island, the Chief Justice & another gentlem.n of N. Jersey & Mr. C. Griffin of Virg.a. Mr. Rutledge, Mr. Jones & Gen.l Nelson have declined the service. On the part of Penn.a, appear Mr. Wilson Mr. Reed, Mr. Bradford & Mr. Sergeant. Mr. Osborne assists in the capacity of Solicitor. On the part of Connecticut are deputed Mr. Dyer, Mr. Root, & Doct. Sam.l Johnson. The first & the last I am told, are on the spot. It is supposed that the first object of Cont will be to adjourn the cause to a distant day on the plea that many of their essential documents are beyond the Atlantic. In a national view it is not perhaps advisable to invalidate the title of this State however defective it may be, until a more important controversy is terminated. I will make the earliest communication of the issue of this trial. You will not forget a like promise which your letter makes with respect to the case lately decided by the Court of Appeals."—*Mad. MSS.*

[1] Madison set forth the delinquency of Virginia in complying with the requisitions of Congress in the following letter to Edmund Randolph, dated November 26th (cypher represented by italics):

"The Governor in his letter to the Delegates of the 8.th of the prest. month, after observing that the great scarcity of cash in Virg.a will put it out of her power to comply with the demands of Congress, unless the Financier will accept Tob.o in payment, desires us to sound the latter on that subject. We

A motion was made by Mr. Rutledge, 2[ded] by Mr. Williamson, to instruct the committee to Report the best mode of liquidating the domestic debts, and of obtaining a valuation of the land

accordingly called on Mr Morris, and to our astonishment were told that a proposition to this very effect, and to the amount of *sixty thousand dollars* had been a considerable time *lying before* him that his agent had been instructed to *allow the current price* and that he wished to have obtained *the tobacco* because it could be immediately sent under a *fortunate convoy to Holland where* its influence on *public credit might be* critical and important. Either therefore Mr M. must have been basely *deceived by his agent* which can *hardly be supposed or the Governor must in the first case* have rejected a fair *offer and in the next* imposed *on us* a *very* nugatory and *awkward negotiation* as we concealed from the Superintendt that our enquiries with *the Govt he* escaped *the risk to* which he had *exposed his* character *with that Minister* [sic] I cannot pass over this circumstance without a lamentation on the *obloquy which Virginia* brings *on herself by* submitting to be *eclipsed by even the* feeble *efforts of other states.* The monthly *lash of the* Receiver's proclamation, which has *roused so many other states* into *some degree of emulation* has produced *no effect on her.* In our conversation with Mr M. we were indeed told that Mr *Webb* had a prospect of *between two and three thousand dollars.* But if any thing can add to the mortification which *we feel at the receipt of nothing* it will be *the receipt of so beggarly a sum.* I confide therefore that there is at least *enough of pride in the state to prevent it.*

. . . . . .

"The obstinacy of Rhode Island in rejecting the Impost is a subject of very general *pointed crimination* not only among *the public creditors and their friends* who deem it equivalent to *denial of justice*, but among the most *enlightened patrons of the fœdral interests* who pronounce it a *blow* to our *credit abroad*, as well as *our future credit at home.* And in truth who can combine this consideration with the paltry *payments on the last requisition of Congress and not shudder at the prospect.* This obstinacy on the part of R. I. is supposed, on good grounds, to be much *cherished by the* limited manner in which other *states have acceded to the impost* from which she infers a latent repugnance to the measure. Would it not then be prudent *in Virga. to* revise and *enlarge her act of compliance?* If *her example* should prove *less efficacious* than might *be wished* it would at least *have a conciliatory effect on other states and gain her general credit.* I see no possible objection, unless indeed she wishes the *plan to be frustrated*; in which case I can only give it as my firm opinion that a thorough knowledge of public affairs would speedily reconcile her to it. If your own ideas correspond with those here expressed, and the temper of the Legislature be not unfavorable, you will give such suggestions as may be best adapted to the object, and make them the subject of a future paragraph."—*Mad. MSS.*

within the several States, as the Article of Confederation directs— The first part of the instruction was negatived, provision having been previously made on that head. In place of it the Superintend[t] of Finance was instructed to report the causes which impede that provision. The 2[d] part was withdrawn by the mover. A committee however was afterwards appointed, consisting of Mr. Rutledge, Mr. Nash Mr. Duane Mr. Osgood & Mr. Madison, to report the best scheme for a valuation.

THURSDAY, NOV[R] 21.

A report was made by a Committee to whom had been referred several previous reports & propositions relative to the salaries of foreign Ministers, delivering it as the opinion of the Committee that the Salaries allowed to Ministers Plenipo[ty] to wit £2500 Sterlg. would not admit of reduction ; but that the sal[y] allowed to Secretaries of legations, to wit £1000. Sterl[g], ought to be reduced to £500. This Committee consisted of Mr. Duane, Mr. Izard & Mr. Madison the last of whom disagreed to the opinion of his colleagues as to the reduction of the £2500 allowed to M[rs] Plenipo[y].

Ag[st] a reduction it was argued that not only justice, but the dignity of the U. S. required a liberal allowance to foreign servants ; that gentlemen who had experienced the expence of living in Europe did not think that a less sum would be sufficient for a Decent style ; and that in the instance of Mr. A. Lee, the expences claimed by him & allowed by Congress exceeded the fixed salary in question.

In favor of a reduction were urged the poverty of the U. S., the simplicity of Republican Governments, the inconsistency of splendid allowances to Ministers whose chief duty lay in displaying the wants of their Constituents and soliciting a supply of them ; and, above all, the policy of reconciling the army to the economical arrangements inposed on them, by extending the reform to every other Department.

The result of this discussion was a reference of the Report to another Committee, consisting of Mr. Williamson, Mr. Osgood & Mr. Carrol.

A motion was made by Mr. Howel, 2$^{ded}$ by Mr. Arnold, recommending to the several States to settle with & satisfy at the charge of the U. S. all such temporary corps as had been raised by them respectively with the approbation of Congress. The repugnance which appeared in Congress to go into so extensive & important a measure at this time, led the mover to withdraw it.

A motion was made by Mr. Madison seconded by Mr. Jones, "That the Sec$^{y}$ of F. Affairs be authorized to communicate to For$^{n}$ Ministers who may reside near Congress, all such articles of Intelligence rec$^{d}$ by Congress as he shall judge fit & that he have like authority with respect to acts & Resolutions passed by Congress; reporting nevertheless the communications which, in all such cases he shall have made."

It was objected by some that such a Resolution was unnecessary, the Sec$^{y}$ being already possessed of the authority; it was contended by others that he ought previously to such communication, to report his intention to do so; others again were of opinion that it was unnecessary to report at all.

The motion was suggested by casual information from the Sec$^{y}$, that he had not comunicated to the French Minister the reappointment of Mr. Jefferson, no act of Congress having empowered or instructed him to do so.

The motion was committed to Mr. Williamson Mr. Madison & Mr. Peters.

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FRIDAY, NOV$^{R}$ 22.

A considerable time previous to this date a letter had been rec$^{d}$ by Congress from Mr. H. Laurens, informing them of his discharge from captivity, and of his having authorized in the British Ministry an expectation that Earl Cornwallis s$^{d}$ in his turn be absolved from his parole. Shortly after a letter from Doc$^{r}$ Franklin informed Congress that at the pressing instance of Mr. L., and in consideration of the offer of Gen$^{l}$ Burgoyne for Mr. L. by Congress, as well as the apparent reasonableness of the thing, he had executed an instrument setting Cornwallis at liberty from his parole, until the pleasure of Congress should be known. These papers had been committed to M$^{r}$ Rutledge M$^{r}$

Mongomery & M^r^ Madison, who reported in favor of the ratification of the measure, against the opinion however of Mr. R. the first member of the Committee. The Report after some discussion had been recommitted & had lain in their hands, until being called for, it was thought proper by the Committee to obtain the sense of Congress on the main question whether the act s^d^ be ratified or annulled ; in order that a report might be made correspondent thereto. With this view a motion was this day made by Mr. M., 2^ded^ by Mr. Osgood that the Committee be instructed to report a proper act for the ratification of the measure. In support of this motion it was alledged, that whenever a public minister entered into engagements without authority from his Sovereign, the alternative which presented itself was either to recall the minister, or to support his proceedings, or perhaps both ; that Congress had by their Resolution of the [seventeenth] day of [September] refused to accept the resignation of Mr. L. and had insisted on his executing the office of a Minister Plenipo: and that on the [twentieth] day of [September] they had rejected a motion for suspending the said Resolution ; that they had no option therefore but to fulfil the engagement entered into on the part of that Minister ; that it would be in the highest degree preposterous to retain him in so dignified and confidential a service, and at the same time stigmatize him by a disavowal of his conduct and thereby disqualify him for a proper execution of the service ; that it was improper to send him into negotiations with the Enemy under an impression of supposed obligations ; that this reasoning was in a great degree applicable to the part which Doc^r^ Franklin had taken in the measure ; that finally the Marquis de la Fayette, who in consequence of the liberation of Cornwallis, had undertaken an exchange of several officers of his family, would also participate in the mortification ; that it was overrating far the importance of Cornwallis, to sacrifice all these considerations to the policy or gratification of prolonging his captivity.

On the opposite side it was said, that the British Gov^t^ having treated Mr. L. as a Traitor not as a Prisoner of war, having refused to exchange him for Gen^l^ Burgoyne, and having declared by the British Gen^l^ at N. York that he had been freely discharged, neither Mr. L. nor Congress would be bound either in honor or justice to

render an equivalent; and that policy absolutely required that so barbarous an instrum$^{t}$ of war, and so odious an object to the people of the U. S. should be kept as long as possible in the chains of captivity; that as the latest advices rendered it probable that Mr. L. was on his return to America, the commission for peace would not be affected by any mark of disapprobation which might fall on his conduct; that no injury could accrue to Doc$^{r}$ Franklin, because he had guarded his act by an express reservation for the confirmation or disallowance of Congress; that the case was the same with the Marquis de la Fayette; that the declaration ag$^{st}$ partial exchanges until a Cartel on national principles s$^{d}$ be established w$^{d}$ not admit even an exchange anteced$^{t}$ thereto.

These considerations were no doubt with some the sole motives for their respective votes. There were others however who at least blended with them, on one side, a personal attachment to Mr. L., and on the other, a dislike to his character, and a jealousy excited by his supposed predilection for G. B. by his intimacy with some of the new Ministry, by his frequent passing to & from G. B. by the eulogiums pronounced on him by Mr Burke in the House of Commons, and by his memorial whilst in the Tower, to the Parliam$^{t}$. The last consideration was the chief ground on which the motion had been made for suspending the Resolution which requested his continuance in the Commission for peace.

In this stage of the business a motion was made by Mr. Duane 2$^{ded}$ by Mr. Rutledge to postpone the consideration of it; which being lost, a motion was made by Mr. Williamson to substitute a Resolution declaring, that as the B. Gov$^{t}$ had treated Mr. L. with so unwarrantable a rigor & even as a Traitor, and Cornwallis had rendered himself so execrable by his barbarities, Congress could not ratify his exchange—An adjournment was called for in order to prevent a vote with so thin & divided a house.

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No Congress till

MONDAY, NOV$^{R}$ 25.

A letter from the L$^{t}$ Gov$^{r}$ of R. I. was read containing evidence that some of the leaders in Verm$^{t}$, and particularly Luke Nolton

who had been deputed in the year 1780 to Congress as agent for that party opposed to its independence but who had since changed sides had been intriguing with the enemy in N. Y. The letter was committed. See No^r 27.

The consideration of the motion for ratifying the discharge of Cornwallis was resumed. Mr. Williamson renewed his motion which failed. Mr. McKean suggested the expedient of ratifying the discharge, on condition that a General cartel should be acceded to. This was relished at first by several members, but a development of its inefficacy and inconsistency with national dignity stifled it.

A motion was made by Mr. Rutledge, 2^ded by Mr. Ramsay, that the discharge should be ratified in case Mr. L. should undertake the office of commissioner for peace. This proposition was generally considered as of a very extraordinary nature, and after a brief discussion withdrawn.

In the course of these several propositions most of the arguments stated on friday last were repeated. Col: Hamilton who warmly & urgently espoused the ratification, as an additional argument mentioned, that some intimations had been given by Colonel L. of the army with the privity of Gen^l W., to Cornwallis previous to his capitulation, that he might be exchanged for his father, then in the Tower.

The Rep^t of the Committee on Mr. M^s motion on the 21 inst: relative to the Sec^y of F. Affairs, passed without opposition.

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TUESDAY, NOV^R 26.

No Congress but a Grand Committee composed of a member from each State.

The States of N. H. & Mass^ts having redeemed more than their quota of the Emissions prior to the 18^th of March 1780, had called on Congress to be credited for the surplus, on which the Superintend^t of Finance reported that they ought to be credited at the rate of 1 Dollar specie for 40 of the s^d Emission, according to the Act of March aforesaid.[1] This report being judged by Congress

[1] This act recited the depreciation of the bills of credit to at least $\frac{39}{40}$ below their nominal value and the necessity of decreasing the quantity of paper in

unjust as the money had been called in by those States at a greater depreciation, was disagreed to. Whereupon a motion was made by Mr. Osgood, that the States who had redeemed a surplus should be credited for the same according to its current value at the time of redemption.

This motion with a letter afterwards rec$^{d}$ from the State of Mass: on the same subject, was referred to the Grand Committee in question.

The Committee were unanimous that justice required an allowance to the States who s$^{d}$ sink a surplus, to be apportioned on the different States. The different expedients were

1. That Congress s$^{d}$ renew their call on the States to execute the Acts of the 18$^{th}$ of M., 1780 and leave it to the States to level the money by negotiations among themselves. This was Mr. Hamilton's idea. The objections against it were that either nothing w$^{d}$ be done in the case or the deficient States w$^{d}$ be at the mercy of the hoarding States; altho the former were perhaps prevented from doing their part by invasions; & the prosperity of the latter enabled them to absorb an undue proportion.

By Mr. Madison it was proposed that Congress should declare that whenever it s$^{d}$ appear that the whole of the bills emitted prior to the 18$^{th}$ of M., 1780 shall have been collected into the treasuries of the several States, Congress w$^{d}$ proceed to give such credit for any surplus above the quotas assigned as equity might require, and debit the deficient States accordingly. In favor of this expedient it was supposed that it would give a general encouragement to the States to draw the money outstanding among individuals into the public treasuries, and render a future equitable arrangem$^{t}$ by Congress easy. The objections were that it gave no satisfaction immediately to the complaining States, & would

circulation. It was resolved that the States should pay their quotas at the rate of one Spanish milled dollar for forty dollars of the bills, that the bills as paid in be destroyed, that as fast as funds should be provided other bills should be issued not to exceed one-twentieth part of the nominal sum of bills destroyed, that the new bills bear interest at five per cent. per annum and be redeemed within six years in specie, that the new bills be issued to the States in proportion according to their monthly quotas.—*Journals of Congress*, iii., 443.

prolong the internal embarrassments which have hindered the States from a due compliance with the requisitions of Congress.

It was lastly proposed by Mr. Fitzsimmons that the Commissioners appointed to traverse the U. S., for the purpose of settling accounts should be empowered to take up all the outstanding old money and issue certificates in place of it, in specie value according to a rule to be given them by Congress the amount of the certificates to be apportioned on the States as part of the public debt, the same rule to determine the credit for redemptions by the States. This proposition was on the whole generally thought by the Committee least objectionable and was referred to a subcommittee composed of Mr. Rutledge, Mr. Fitzsimmons & Mr Hamilton to be matured & laid before the G. Com[e]. One consideration suggested by Mr. Hamilton in its favor was that it would multiply the advocates for federal funds for discharging the public debts, and tend to cement the Union.[1]

[1] "Its reasonableness and its *fate both* will depend much on the scale by which as well the *redeemed as the outstanding bills is to be valued.* In all questions relative to this subject, the defect of information under which we lie makes it difficult for us to deduce the general interest from a just & fair comparison of particular interests. To supply in some degree this defect with regard to Virginia I shall enclose to M[r] Ambler for his answers, a number of queries, of which I herein add a copy for you. Some of the queries indeed have a greater reference to other subjects. If you can assist Mr. A. or can enlarge the plan by other queries I beg you to do it. If the sense of the *leading members of the Assembly* can be *conveniently gathered it* might *also be of use.* A public *consultation* would *violate the secrecy* which is judged necessary *to prevent a revival of speculation* and which *led me* to *the use of the* cypher on this occasion."—*Madison to Edmund Randolph*, Dec. 3, 1782. (Italics for cypher.)

"Queries put to [Jaquelin] Ambler [Treasurer of Virginia].

"1. What is the amount of the old Cont[l] bills actually sunk by Virg[a] in pursuance of the Act of 18[th] of March?

"2. What is the probable sum remaining in the hands of Individuals in Virg[a]?

"3. Does it circulate and at what value?

"4. How stands the law with respect to it & what is the prospect of its further redemption?

"5. How much of the $\frac{6}{10}$[ths] of the new Cont[l] emissions has been issued?

"6. How much of the sum issued has been redeemed?

"7. At what value was it generally issued?

WEDNESDAY, NOV$^{R}$ 27$^{th}$.

The report of the Committee on the letter from the L$^{t}$ Gov$^{r}$ of R. Island (see Nov$^{r}$ 25) was made & taken into consideration.

"8. At what value does the outstanding sum (if any) circulate?

"9. Have the state emissions been all funded at 1 for 1000 under the act for that purpose and what is the sum of the specie certificates issued thereupon?

"10. At what rate are these certificates negociated?

"11. What is the conjectured amount of certificates in Virg$^{a}$ issued by continental officers? and at what rate are they negociated?

"12. What is the conjectured amount of certificates issued by the state for continental purposes? and at what rate negociated?

"13. What is the amount of debits in the auditor's office ag$^{st}$ the U. S. for advances made by Virginia independent of the Requisitions of Congress?

"14. What is the amount of credits independent of the same?

"15. In what degree and at what times is there a prospect of payments under the Requisition of 8 million for the current year?

"16. What appears from the returns to be the aggregate valuation of lands made under the act of Jan$^{y}$ 1, 1782 directing the same?

"17. Is the valuation deemed pretty true on the whole and pretty equal among individuals?

"18. What is the computed number of white inhabitants?

"19. What of Black do?

"20. What is the amount of the losses from the enemy returned under the act of June 6. last."

Answers to all the questions are not found. He replied to Question 9: "A small sum only has been funded, the greater part being laid out in the purchase of back lands—The time continued for bringing in the same til first June next." To Question 10: "No demand for such — the day of redemption being too distant." To Question 11: "About £100,000.—has been issued *to* Con$^{l}$ officers in Certificates, and others daily issuing—negociated from 2. to 4. for 1.—Those issued *by* them cannot be ascertained." To Questions 12, 13, and 14: "The Auditors of public accounts can only answer these, who are much ingaged at present. — The debits are supposed to be very large." To Question 15: "No probability soon—Taxes for the Current year are not payable till first May — & those chiefly commutable for; as you will observe by the Gazette of the 1$^{st}$ Feby." To Question 16: "£6,042,401.2.5—N. B. Eight Counties have made no returns." To Question 17: "Very unequal, especially among Individuals—a law passed last Session for equalizing the land Tax, is intended to remedy the evil complained of." To Question 18: "Many of the Returns did not distinguish between the whites & blacks, so that this cannot be at present answered." To Question 19: "About 230,000." To Question 20: "Returns not fully made."—*Mad. MSS.*

It was moved by Mr. McKean to insert in the first clause on the Journal, after directing the apprehension by Gen[l] W., "in order that the s[d] persons may be brought to trial." The reason urged for the motion was that it might appear that the interposition was not meant to supersede civil process further than the necessity of the case required. Ag[st] the motion it was urged, that it would lead to discussions extremely perplexing & dilatory & that it would be more proper after the apprehension s[d] have taken place.—The motion was lost, 6 States only being for it.

With respect to the main question it was agreed on all sides that it was indispensable to the safety of the U. S. that a traitorous intercourse between the inhabitants of Vermont & the Enemy should be suppressed. There were however two modes proposed for the purpose, viz : the direct & immediate interposition of the military force according to the Report, and, 2[dly] A reference in the first instance to the acting Authority in Vermont, to be followed in case of refusal or neglect of Justice on the offenders, by an exertion of compulsive measures against the whole body.

In favor of the 1[st] mode it was s[d], that it would be the only effectual one & the only one consistent with the part Congress had observed with regard to Vermont ; since a reference to the Authority of Vermont, which had itself been suspected & accused would certainly be followed at the best by a mere mock trial ; and would moreover be a stronger recognition of its independence than Congress had made or meant to make.

In favor of the 2[d] mode it was alledged, that the body of the people in Vermont were well attached to the Revolution, that a sudden march of military force into the Country might alarm them, that if their Rulers abetted the Traitors, it w[d] disgrace them in the eyes of their own people, and that Congress would be justified in that event to "split Vermont up among the other States." This expression, as well as the arguments on this side in general came from Mr. Howell, of R. I., whose object was to render the proceedings of Congress as favorable as possible to the independence of Vermont.

In order to compromise the matter Mr. Arnold moved that the Comander in Chief s[d] be directed to make a previous communication of his intentions & the evidence on which they were founded

to the persons exercising authority within the district in question.

It was suggested by Mr. Madison, as a better expedient that he s$^{d}$ be authorized to make the communication if he should deem it conducive to the more certain apprehension of the suspected persons.

The Delegates from N. Y. said they would agree that after the apprehension should have been effected, the Commander might give notice thereof to the Persons exercising authority in Vermont.

It was finally compromised as it stands on the Journal.

In the course of the Debate Mr. Clark informed Congress, that the Delegates of N. Jersey could not vote for any act which might oppose force to the Authority of Vermont, the Legislature of that State having so construed the Resolutions of the 7 & 20$^{th}$ of Aug : as to be incompatible therewith & accordingly instructed their Delegates.

The communication directed to the States on this occasion thro' the Commander in Chief was objected to by several members as an improper innovation. The object of it was to prevent the risk of discovery, if sent before the plans which might be taken by Gen$^{l}$ W were sufficiently advanced, of which he was the proper Judge.

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THURSDAY NOV$^{R}$ 28TH.

No Congress.

Mr. Livingston, Sec$^{y}$ of F. Affairs called upon me & mentioned his intention to resign in a short time his office ; observing that as he ultimately was decided to prefer his place of Chancellor in N. York to the other, and the two had become incompatible by the increase of Business in the former, he thought it expedient not to return to Phil$^{a}$, after a visit to N. Y. which was required by this increase. In the course of conversation he took notice that the expence of his appoin$^{t}$ under Congress had exceeded his salary about 3000 Doll$^{rs}$ per Annum. He asked me

whether it was probable Mr. Jefferson would accept the vacancy, or whether he would accept Mr. Jay's place in Spain, and leave the vacancy to the latter. I told him I thought Mr. J. w$^{d}$ not accept it himself & doubted whether he would concur in the latter arrangement, as well as whether Congress would be willing to part with Mr. Jay's services in the Negotiations of peace; but promised to sound Mr. J. on these points by the first opportunity.[1]

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No Congress untill

MONDAY, DEC$^{R}$ 2$^{D}$.

The Sec$^{y}$ of foreign Affairs resigned his office, assigning as a reason the increase of business in his office of Chancellor of N. Y., whereby it was become impossible for him to execute the duties of both; informing Congress at the same time as a rule for providing for his successor, that his expences exceeded his salary upwards of 3000 Doll$^{rs}$ per annum. The letter of resignation was committed to Mr. McKean, Mr. Osgood, &c.[2]

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[1] Dec. 3, Madison wrote to Randolph (italics for cypher): "I leave it to yourself to decide how far it may be worth while to *feel the pulse* of our friend McClurg with respect to the *vacancy in question*."—*Mad. MSS.*

[2] Livingston consented to remain until the following May and did in fact serve until June 4. The office of Secretary for Foreign Affairs was practically vacant from Livingston's departure until Jay entered upon the duties of the office September 21, 1784. Livingston, however, expressed a willingness to return and temporarily resume the office in order to affix his signature to a final treaty of peace. He wrote to Madison from Clermont, his seat on the Hudson River, July 19, 1783: "I believe I mentioned to you before I left Philadelphia that if Congress should make no appointment of a secretary before the arrival of the treaty it would give me great pleasure to be permitted to sign it in that character & thus conclude my political career. . . . As the grand treaty which sets the seal to our independance should not want the usual forms, & as several little matters may be necessary in consequence thereof, perhaps they may be induced to recite that their removal & their want of a full representation having prevented their supplying the place of the late Secretary for foreign affairs that it would be agreeable to them that he resume the direction of the department *till the ratification of the definitive treaty*."—*Mad. MSS.*

TUESDAY, DEC$^{R}$ 3.

After a verbal report of the Committee above mentioned, who acquainted Congress that in conference with Mr. Livingston he professed a willingness to remain in office till the 1$^{st}$ of Jan$^{y}$, to give time for the choice of a Successor, Mr. McKean proposed the Resolution which stands on the Secret Journals; several alterations having been made however in the course of its consideration. With respect to the Preamble particularly, a change took place. As it was first moved it recited as the ground of the resignation the incompatibility of the office of foreign Affairs with the Chancellorship of N. Y. To this recital it was objected by Mr. Madison, that such a publication of preference of the office of Chancellor of a particular State to the office of foreign Affairs under the U. S., tended to degrade the latter. Whereupon the Preamble on the Journal was substituted. In the course of this business the expediency of augmenting the salary was suggested, but not much supported. Mr. Howel & Mr. Clark opposed it strenuously.

The Report of the Committee on the case of Vermont mentioned on Thursday the 14 of Nov$^{r}$. was called for by Mr. McKean, & postponed on his motion to make way for a set of Resolutions declaring that as Vermont in contempt of the authority of Congress & their Recommendations of —— 1799,[1] exercised jurisdiction over sundry persons professing allegiance to the State of N. Y., banishing them and stripping them of their possessions, the former be required to make restitution &c. and that in case of refusal or neglect Congress will enforce the same, &c. A motion was made by Mr. Clark 2$^{nd}$ by Mr. Howel to strike out the latter clause; in favor of which it was said that such a menace ought to be suspended until Vermont should refuse

[1] May 22, 1799, it was resolved that no state should be divested of any land over which it held jurisdiction before the separation from Great Britain, and that no part of the states should be permitted to separate and become independent without the consent of the states concerned, and that the inhabitants of the pretended state of Vermont be recommended to return peaceably to their former jurisdiction, those who had separated from New York to New York and those who had separated from New Hampshire to New Hampshire.—*Journals of Congress*, iii., 285, 286.

to comply with the Requisition, especially said Mr. Howel as the present proceeding being at the instance of Phelps & other exiles, was an ex parte one.

Against the motion for expunging the clause, it was observed that a requisition on Vermont without such a menace w^d^ have no effect, that if Congress interposed they ought to do it with a decisive tone; that as it only enforced restitution in cases where spoliations had been committed and therefore was conditional, the circumstance of its being ex parte was of no weight, especially as Congress c^d^ not call on Verm^t^ to appear as a party after her repeated protestations ag^st^ appearing.

On this occasion, Mr. Carroll informed Congress that he had entirely changed his opinion with regard to the policy requisite with regard to Verm^t^ being thoroughly persuaded that its leaders were perfidious men & that the interest of the U. S. required their pretensions to be discountenanced; that in this opinion he was not a little confirmed by a late conversation with Gen^l^ Whipple of N. Hampshire at Trenton in which this Gentleman assured him, that the Governing party in Vermont were perfidiously devoted to the British interests & that he had reason to believe that a British Comission for a Gov^r^ of that district had come over & was ready to be produced at a convenient season. Some of the members having gone out of Congress & it being uncertain whether there would be more than six States for the clause, an adjournment was moved for & voted.

The proceedings on this subject evinced still more the conciliating effect of the territorial cession of N. York, on several States & the effect of the scheme of an ultra-montane State within Penns^a^, on the latter State. The only States in Congress which stood by Vermont were Rhode Island, which is supposed to be interested in lands in Verm^t^, and N. Jersey whose Delegates were under instructions on the subject.

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WEDNESDAY DEC^R^ 4.

After the passing of the Resolution concerning Cap: P. Jones,[1]

[1] "*Resolved*, That the agent of marine be informed, that Congress having a high sense of the merit and services of Capt. J. P. Jones, and being disposed favour the zeal manifested by him to acquire improvement in the line

a motion was made by Mr. Madison to reconsider the same, that it might be referred to the Agent of Marine to take order, as a better mode of answering the same purpose; since it did not become the sovereign body to give public sanction to a recommendation of Capt: Jones to the Commander of the French Squadron, especially as there was no written evidence that the latter had signified a disposition to concur in the project of Capt: Jones. The motion was lost; a few States only being in favor of it.

The reason assigned by those who voted against the promotion of Col:s to Brigads according to districts was that such a division of the U. S. tends to foster local ideas, and might lead to a dismemberment.

The Delegates from Penna reminded Congress that no answer had been given to the memorials (see Novr 20) from that State that the Legislature were proceeding in the measure intimated in the said memorials and that they meant to finish it & adjourn this evening.[1] The reasons mentioned by the Delegates as prevailing

profession, do grant the permission which he requests; and that the said agent be instructed to recommend him accordingly to the countenance of his excellency the Marquis de Vaudreuil." The committee making the report was composed of Osgood, Madison and Hamilton.—*Journals of Congress* iv., 111.

[1] Madison wrote to Edmund Randolph, Dec. 10, 1782. (Italics for cypher.)

"The Assembly of Penna have with much difficulty been prevailed on to desist from a plan in which a part of the Requisition of Congress allotted for other uses was to be appropriated to their Citizen Creditors of the U. S. The consequences apprehended by Congress from such an example, and the probability that the plan will be renewed at the next meeting unless some intermediate provision be made for the Credit of the U. S., have produced two Resolutions, 1st an instruction to the Superintendt of Finance to represent to the States the pernicious tendency of such unconstitutional appropriation; 2dly, a deputation of Mr. Osgood, Mr. Mifflin & Mr. Nash, to enforce on Rhode I. the impost of 5 Per Ct. The latter Resolution besides its tendency to the immediate end proposed by the first, was called for [by] *the general pressure of our necessities.* Our official letter incloses these Resolutions to the Executive, and hazards some *very free and alarming* remarks for *the legislature*, directly pointing to *a fuller compliance* with *the impost.* I have added a private letter to the Governor which is still more explicit & pointed on the subject. In the present situation of our Affairs, we did not think less would justify us ju[illegible]rselves or to our constituents.

who Mr. Harrison at Cadiz has advised the Secy of Foreign Affairs that the *Congress* fleet under Admiral Howe had effected the relief of Gibralter, by

with the Legislature were 1st, the delay of Congress to give an answer which was deemed disrespectful 2d the little chance of any funds being provided by Congress for their internal debts; 3dly, the assurance (given by one of their members Mr. Jos Mont—g—y, mentioned privately not on the floor) that no impediment to the support of the war cd arise from it, since Congress had provided means for that purpose in Europe.

A Committee consisting of Mr. Rutledge Mr. Madison & Mr. Hamilton was appointed to confer immediately with a Committee from the Legislature on the subject of the Memorials & were instructed to make such communications relative to our affairs abroad as would correct misinformations. The comittee which met them on the part of the Legislature, were Mr. Jos: Montgomery, Mr. Hill & Mr. Jacob Rush.

The Committee of Congress in the conference observed that the delay of an answer had proceeded in part from the nature of so large an assembly of which the Comittee of the Legislature cd not be insensible, but principally from the difficulty of giving a satisfactory one until Rhode Island sd accede to the Impost of

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destroying the combined fleets from their station, & throwing in Succours, before the weather would allow the latter to regain it. He says the British fleet on the return was pursued by the Combined fleet. The Vessel by which the letter came reports that she passed through the Combined fleet after she left Cadiz, and that two Spanish Ships had been lost, one fallen into the hands of the Enemy & the other chased on shore by them. Mr Harrison adds as a more welcome Article that a detachment of Frigates &c. which had been sent from Cape Francois for the demolition of the British Fortress on Hudson's Bay had arrived in Europe with a report of complete success, having destroyed & taken effects to the value of half a Million Sterlg.

"The Secy of F. A. has resigned his office in form, but will continue to act for the present month to prevent an interregnum in the Department. The 19th instant is fixed for the choice of a Successor. None has yet been put in nomination.

"By Mr. Jefferson's letter to the Office of F. A. and a private one to myself, he may be expected here about the end of this month. It is improper therefore to address anything to him.

"The Grand Committee have had another meeting on the subject mentioned in a late letter. The Scheme of Mr. Fitz[simo]ns was adopted with the *rates of* depreciation *left blank*. The ideas on this point varied from *forty to one hundred and and upwards for one*."—*Mad. MSS.*

5 Per C$^{t}$ of which they had been in constant expectation ; that with respect to the prospect from Congress for the public Creditors Congress had required of the States interest for the ensuing year, had accepted the territorial Cession of N. Y. and meant still to pursue the scheme of the impost ; that as to their affairs in Europe the loan of 6 Millions of livres only last year had been procured from France by Dr. Franklyn, in place of 12 asked by him, the whole of which had been applied ; that the loan of 5.000.000 Guilders opened by Mr. Adams had advanced to about 1½ Million only and there seemed little progress to have been made of late ; that the application for 4 Million as part of the estimate for the ensuing year was not founded on any previous information in its favor but against every intimation on the subject, & was dictated entirely by our necessities ; so that if even no part of the requisitions from the States s$^{d}$ be denied, or diverted, the support of the war the primary object, might be but deficiently provided for. That if this example which violated the right of appropriation delegated to Congress by the federal Articles, should be set by P$^{a}$, it would be both followed by other States & extended to other instances ; that in consequence, our system of administration, and even our bond of Union w$^{d}$ be dissolved ; that the enemy would take courage from such a prospect and the war be prolonged if not the object of it be endangered ; that our national credit would fail with other powers, & the loans from abroad which had been our chief resource fail with it. That an assumption by individual States of the prerogative of paying their own Citizens the debts of the U. S. out of the money required by the latter was not only a breach of the federal system but of the faith pledged to the public Creditors ; since payment was mutually guaranteed to each & all of the Creditors [by] each & all of the States ; and that lastly it was unjust with respect to the States themselves on whom the burden would fall not in proportion to their respective abilities, but to the debts due to their respective Citizens ; and that at least it deserved the consideration of P$^{a}$ whether she would not be loser by such an arrangement.

On the side of the other Comittee it was answered that the measure c$^{d}$ not violate the confederation, because the requisition

had not been founded on a valuation of land ; that it would not be the first example, N. H. & N. Y. hav$^{g}$ appropriated money raised under requisitions of Congress ; that if the other States did their duty in complying with the demands of Congress no inconvenience would arise from it, that the discontents of the Creditors w$^{d}$ prevent the payment of taxes ; Mr. Hill finally asking whether it had been considered in Congress how far delinquent States c$^{d}$ be eventually coerced to do justice to those who performed their part ? To all which it was replied that a valuation of land had been manifestly impossible during the war—that the apportionments made had been acquiesced in by P$^{a}$, and therefore the appropriation could not be objected to ; that altho other States might have set previous examples, these had never come before Congress, & it w$^{d}$ be more honorable for P$^{a}$ to counteract than to abet them especially as the example from her weight in the Union & the residence of Congress w$^{d}$ be so powerful, that if other States did their duty the measure w$^{d}$ be superfluous ; that the discontents of the Creditors might always be answered by the equal justice & more pressing necessity which pleaded in favor of the army, who had lent their blood & services to their Country, and on whom its defence still rested ; that Congress unwilling to presume a refusal in any of the States to do justice, c$^{d}$ not anticipate it by a consideration of the steps w$^{ch}$ such refusal might require, & that ruin must ensue if the States suffered their policy to be swayed by such distrusts. The Comittee appeared to be considerably impressed with these remarks, & the Legislature suspended their plan.

THURSDAY, DEC$^{R}$ 5$^{TH}$ 1782

Mr. Lowel & Mr. Reed were elected Judges of the Court of Appeals. Mr. P. Smith, of N. Jersey had the vote of that State ; and Mr. Merchant,[1] of Rhode Island the vote of that State.

The Resolutions respecting Vermont moved by Mr. McKean on the [twenty-seventh] day of [November,] were taken into Consideration. They were seconded by Mr. Hamilton, as entered on the Journal of this day. Previous to the question on the

[1] Henry Marchant.

coercive clause, Mr. Madison observed that as the preceding clause was involved in it, & the federal articles did not delegate to Congress the authority about to be enforced, it would be proper in the first place to amend the recital in the previous clause, by inserting the ground on which the Authority of Congress had been interposed. Some who voted against this motion in this stage having done so from a doubt as to the point of order, it was revived in a subsequent stage when that objection did not lie. The objections to the motion itself were urged chiefly by the Delegates from Rhode Island, and with a view in this as in all other instances, to perplex & protract the business. The objections were 1st that the proposed insertion was not warranted by the Act of N. Hampshire which submitted to the judgment of Congress *merely* the question of jurisdiction. 2dly That the Resolutions of Aug: 1781, concerning Vermont, havg been acceded to by Vermont, annulled all antecedent acts founded on the doubtfulness of its claim to independence. In answer To the 1st. objn the Act of N. H. was read wch in the utmost latitude adopted the Resolus of Congress which extended expressly to the preservation of peace & order & prevention of acts of confiscation by one party agst another. To the 2d objn it was answered 1st that the sd Resons of Aug: being conditional not absolute, the accession of Vermont cd not render them definitive; but 2dly that prior to this accession, Vermont havg in due form rejected the Resolns, and notified the rejection to Congress, the accession could be of no avail unless subsequently admitted by Congress, 3dly, that this doctrine had been maintained by Vermont itself wch had *declared* that inasmuch as the Resolns of Aug: did not correspond wth their overtures previously made to Congress these had ceased to be obligatory; wch act it was to be observed was merely *declaratory*, not creative, of the annulment.

The original motion of Mr. McKean & Mr. Hamilton [was agreed to] seven States voting for it; R. I. & N. J. in the negative.

FRIDAY 6 DECR

An ordinance, extending the privilege of Franking letters to the Heads of all the Departments was reported & taken up. Various ideas were thrown out on the subject at large; some contending

for the extension proposed some for a partial adoption of it, some for a total abolition of the privilege as well in members of Congress as in others. Some for a limitation of the privilege to a definite number or weight of letters. Those who contended for a total abolition, represented the privilege as productive of abuses, as reducing the profits so low as to prevent the extension of the establishment throughout the U. S. and as throwing the whole burden of the establishment on the mercantile intercourse.—On the other side it was contended that in case of an abolition The Delegates, or their Constitutents, would be taxed just in proportion to their distance from the seat of Congress ; which was neither just nor politic, considering the many other disadvantages which were inseparable from that distance ; that as the correspondence of the Delegates was the principal channel through which a general knowledge of public affairs, was diffused, any abridgment of it would so far confine this advantage to the States within the neighbourhood of Congress ; & that as the correspondence at present however voluminous did not exclude from the mail any private letters which w$^{d}$ be subject to postage, and if postage was extended to letters now franked the n° & size of them would be essentially reduced, the revenue was not affected in the manner represented. The Ordinance was disagreed to & the subject recommitted, w$^{th}$ instruction to the Committee giving them ample latitude for such Report as they should think fit.

A Boston Newspaper containing under the Providence Head, an extract of a letter purporting to be written by a Gentleman in Philad$^{a}$ and misrepresenting the state of our loans, as well as betraying the secret proposal of the Swedish Court to enter into a Treaty with the U. S; with the view of disproving to the people of R. Island the necessity of the Impost of 5 P C$^{t}$ ; had been handed about for several days. From the style and other circumstances, it carried strongly the appearance of being written by a Member of Congress. The unanimous suspicions were fixed on Mr. Howel. The mischievous tendency of such publications & the necessity of the interposition of Congress were also general subjects of conversation. It was imagined too that a detection of the person suspected would destroy in his State that influence which he exerted in misleading its counsels with respect to the

Impost. These circumstances led Mr. Williamson to move the proposition on this subject.[1]

It was opposed by no one.

Mr. Clark supposing it to be levelled in part at him, rose & informed Congress, that not considering the article relative to Sweden as secret in its nature, and considering himself at liberty to make any communications to his Constituents, he had disclosed it to the Assembly of N. Jersey. He was told that the motion was not aimed at him, but the doctrine advanced by him was utterly inadmissible. Mr. Rutledge observed that after this frankness on the part of Mr. Clarke as well as from the respect due from every member to Congress & to himself, it might be concluded that if no member present should own the letter in question, no member present was the author of it. Mr. H. was evidently perturbated but remained silent.

The conference with the Committee of the Legislature of Penn^a^, with subsequent information had rendered it very evident that unless some effectual measures were taken against separate appropriations & in favor of the public Creditors the Legislature of that State, at its next meeting, would resume the plan which they had suspended. Mr. Rutledge in pursuance of this conviction moved that the Superintend^t^ of Finance be instructed to represent to the several States the mischiefs which such appropriations would produce. It was observed with respect to this motion that however it might be as one expedient, it was of itself inadequate ; that nothing but a permanent fund for discharging the debts of the public would divert the States from making provision for their own Citizens ; that a renewal of the call on R. Island for the impost ought to accompany the motion ; that such a combination of these plans would mutually give efficacy to them,

[1] Carroll seconded the motion : "Whereas there is reason to suspect, that as well the national character of the United States and the honor of Congress, as the finances of the said states may be injured, and the public service greatly retarded, by some publications that have been made concerning the foreign affairs of said states :

"Resolved, that a committee be appointed to enquire into this subject, and report what steps they conceive are necessary to be taken thereon."—*Journals of Congress* iv., 114.

since R. Island would be solicitous to prevent separate appropriations, & the other States would be soothed with the hope of the Impost. These observations gave rise to the Motion of Mr. Hamilton, which stands on the Journal.[1] Ag$^{st}$ Mr. Rutledge's part of the motion no objection was made. But The sending a deputation to Rhode Island was a subject of considerable debate, in which the necessity of the impost, in order to prevent separate appropriations by the States, to do equal justice to the Public creditors, to maintain our national character & credit abroad, to obtain the loans essential for supplying the deficiencies of revenue, to prevent the encouragement which a failure of the scheme would give the Enemy to persevere in the war, was fully set forth. The objections, except those w$^{ch}$ came ag$^{st}$ the scheme itself from the Delegates of R. Island, were drawn from the unreasonableness of the proposition. Congress ought it was said to wait for an official answer to their demand of an explicit answer from R. I. before they could with propriety repeat their exhortations. To which it was replied that altho' this objection might have some weight, Yet the urgency of our situation, and the chances of giving a favorable turn to the negotiations on foot for peace rendered it of little comparative significance. The objections were finally retracted, and both the propositions agreed to. The Deputation elected were Mr. Osgood, Mr. Mifflin & Mr. Nash taken from different parts of the U. S., & each from States that had fully adopted the Impost, and would be represented in Congress w$^{th}$out them; except Mr. Osgood whose State, he being alone, was not represented without him.

[1] It directed the superintendent of finance to represent to the several State legislatures the necessity of complying with the requisitions of Congress for $1,200,000 for a year's interest on the domestic debt, and $2,000,000 estimated as the expenses for the ensuing year, and the injuries to the public service likely to arise from the States individually making appropriations of any part of the $2,000,000 or other monies required by Congress; also that a deputation be sent to Rhode Island to represent the condition of affairs and induce that State to comply with the national demands.—*Journals of Congress*, iv., 115.

SATURDAY, DEC.R 7.

No Congress.

The Grand Committee met again on the business of the old paper emissions, and agreed to the plan reported by the sub-committee in pursuance of Mr. Fitzsimmons' motion, vz : that the outstanding bills should be taken up & certificates issued in place thereof at the rate of 1 real Dollar for ——— nominal ds., and that the surpluses redeemed by particular States shod be credited to them at the same rate. Mr. Carrol alone dissented to the plan, alledging that a law of Maryland was adverse to it which he considered as equipollent to an instruction. For filling up the blank, several rates were proposed. 1st, 1 for 40 on which the votes were *no* except Mr. Howell. 2d, 1 for 75 *no* Mr. White & Mr. Howell, *ay*. 3d, 1 for 100 *no* Mr. Hamilton & Mr. Fitzsimmons *ay*. 4th, 1 for 150 *no* Mr. Fitzsimmons *ay*. The reasons urged in favor of 1 for 40 were—first an adherence to public faith, secondly that the depreciation of the certificates would reduce the rate sufficiently low, they being now negotiated at the rate of three or four for one. The reason for 1 for 75, that the bills passed at that rate when they were called in, in the Eastern States ; for 1 for 100—that as popular ideas were opposed to the stipulated rate, and as adopting the current rate might hurt the credit of other securities which derived their value from an opinion that they would be strictly redeemed, it was best to take an arbitrary rate, leaning to the side of liberality,—for 1 for 150 that this was the medium depreciation when the circulation ceased. The opposition to these several rates came from the Southern Delegates, in some of whose States none, in others but little had been redeemed, & in all of which the depreciation had been much greater. On this side it was observed by Mr. Madison, that the States which had redeemed a surplus, or even their quotas, had not done it within the period fixed by Congress but in the last stages of depreciation, & in a great degree, even after the money had ceased to circulate ; that since the supposed Cessation the money had generally changed hands at a value far below any rate that had been named ; that the principle established by

the plan of the 18th. of March 1780, with respect to the money in question was, that the Holder of it sd. receive the value at which it was current, & at which it was presumed he had received it; that a different rule adopted with regard to the same money in different stages of its downfall wd. give general dissatisfaction. The Committee adjourned without coming to any decision.

MONDAY 9TH. DECR.

No Congress.

TUESDAY, 10 DECR.

A motion was made by Mr. Ramsay directing the Secy. at War who was abt. to visit his family in Massachusetts, to take Vermont in his way & deliver the Resolutions passed a few days since to Mr. Chittenden. For the motion it was urged that it would ensure the delivery would have a conciliating effect, and would be the means of obtaining true and certain knowledge of the disposition & views of that people. On the opposite side it was exclaimed agst. as a degradation of so high a Servt. of the U. S., as exposing him to the temerity of leaders who were on good ground suspected of being hostile to the U. S., and as treating their pretensions to Sovereignty with greater complaisance than was consistent with the eventual resolutions of Congress. The motion was rejected.

A motion was made by Mr. Gilman that a day be assigned for determining finally the affair of Vermont. The opposition made to the motion itself by Rhode Island & the disagreement as to the day among the friends of the motion prevented a decision & it was suffered to lie over.

For the letter of the Superintendt. of Finance to T[homas] B[arclay][1] Comr. for settling accounts in Europe, agreed to by Congr., see Secret Journal of this date.

[1] The letter gave Barclay careful instructions for settling the accounts of de Beaumarchais and other debts in Europe.—*Secret Journals of Congress, For. Affs.* 255, *et. seq.*

WEDNESDAY, 11th DECR

The Secy at War was authorized to permit the British prisoners to hire themselves out on condition of a bond from the Hirers for their return. The measure was not opposed, but was acquiesced in by some, only as conformable to antecedent principles established by Congress on this subject. Col Hamilton in particular made this explanation.

Mr. Wilson made a motion referring the transmission of the Resolutions concerning Vermont to the Secy at War in such words as left him an option of being the Bearer, without the avowed sanction of Congress. The votes of Virga & N. York negatived it. The Presidt informed Congress that he should send the Resolutions to the Commander in Chief to be forwarded.

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THURSDAY, DECR 12.

The Report made by Mr. Williamson, Mr. Carrol, and Mr. Madison touching the publication in the Boston paper, supposed to be written by Mr. Howel, passed with the concurrence of R. Island; Mr. Howel hesitating & finally beckoning to Mr. Collins his collegue, who answered for the State in the affirmative. As the Report stood the Executive of Massachusetts, as well as of Rho. Island was to be written to, the Gazette being printed at Boston. On the motion of Mr. Osgood who had seen the original publication in the Providence Gazette and apprehended a constructive imputation on the Mass Delegates by such as would be ignorant of the circumstances, the Executive of Masts was expunged.

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FRIDAY, DECR 13TH.

Mr. Howel verbally acknowledged himself to be the writer of the letter from which the extract was published in the Providence Gazette. At his instance the subject was postponed until Monday.

SATURDAY, DEC$^{R}$ 14TH.

No Congress.

MONDAY, DECEMBER 16TH.

The answer to the objections of Rho: Island,[1] as to the Impost, penned by Mr. Howel, passed without opposition, 8 States being present, of which Rho: Is$^{d}$ was one, a few trivial alterations only being made in the course of discussion.

Mr. Howell, contrary to expectation, was entirely silent as to his affair.

TUESDAY, DEC$^{R}$ 17TH.

Mr. Carrol in order to bring on the affair of Mr. Howel moved that the Sec$^{y}$ of Foreign Affairs be instructed not to write to the Gov$^{t}$ of Rhode Island on the subject. The state in w$^{ch}$ such a vote would leave the business unless the reason of it was expressed, being not adverted to by some, and others being unwilling to

[1] The committee were Madison, Hamilton, and Fitzsimmons. It is probable that Madison was the author since he included the letter in his address to the States of April 25. The letter combated the statement of Rhode Island that the proposed duty would bear hardest on the commercial states. It was, it said, an established general principle, "'That every duty on imports is incorporated with the price of the commodity, and ultimately paid by the consumer, with a profit on the duty itself, as a compensation to the merchant for the advance of his money.'" As a consumer the merchant paid his share of the duty. It thus bore upon all classes in just proportion, and promoted frugality by taxing extravagance. That the collection of the impost would introduce into the states officers unaccountable to them was an idle objection, since it would apply equally to postmasters, and if acceded to would militate against the appointment of any federal internal officers. No government could exist under these circumstances. The proposed measure was one of necessity. The revenue was insufficient and could no longer be supplied by loans. The measure was within the spirit of the confederation. Congress was vested with the power to borrow money, and by implication with power to concert the nucleus necessary to accomplish that end. The measure proposed they had decided upon after the most solemn deliberation.—*Cont. Cong.*

move in the case, this motion was incautiously suffered to pass. The effect of it however was soon observed, and a motion in consequence made by Mr. Hamilton, to subjoin the words, "Mr. Howel having in his place confessed himself to be the Author of the publication." Mr. Ramsay thinking such a stigma on Mr. Howel unnecessary, & tending to place him in the light of a persecuted man whereby his opposition to the Impost might have more weight in his State, proposed to substitute as the reason, "Congress hav^g rec^d the information desired on that subject. The yeas & nays being called for by Mr. Hamilton, Mr. Howell grew very uneasy at the prospect of his name being thereby brought on the Journals; and requested that the subject might be suspended until the day following. This was agreed to & took place on condition that the ne[ga]tived counter direction to the Sec^y of F. A. should be reconsidered & lie over also.

WEDNESDAY, DEC^R 18TH.

This day was chiefly spent on the case of Mr. Howel, whose behaviour was extremely offensive, and led to a determined opposition to him, those who were most inclined to spare his reputation. If the affair could have been closed without an insertion of his name on the Journal, he seemed willing to withdraw his protest; but the impropriety which appeared to some, & particularly to Mr. Hamilton, in suppressing the name of the Author of a piece w^ch Congress had so emphatically reprobated, when the author was found to be a member of Congress, prevented a relaxation as to the yeas & nays. Mr. Howell, therefore as his name was necessarily to appear on the Journal, adhered to the motion which inserted his protest thereon.[1] The indecency of this paper, and

[1] Howell's protest was:—That Congress had no power to call any member to account for information conveyed to his constituents, "the secrets only of Congress excepted," and especially not to call to account a member of the late Congress; that the appointment of a committee to examine into the matter of a publication in the public press was undignified and "a precedent dangerous to the freedom of the press"; that the report of the committee demanding the delivery up by the Executive of Rhode Island of the writer of the publication was

the pertinacity of Mr. Howell in adhering to his assertions with respect to the non-failure of any application for foreign loans, excited great & (excepting his Colleagues or rather Mr. Arnold) universal indignation and astonishment in Congress; and he was repeatedly premonished of the certain ruin in w^ch^ he w^d^ thereby involve his character & consequence; and of the necessity w^ch^ Congress w^d^ be laid under of vindicating themselves by some act which would expose and condemn him to all the world.

THURSDAY, DEC^R^ 19TH.

See Journals.

FRIDAY, DEC^R^ 20TH.

A motion was made by Mr. Hamilton for revising the requisitions of the preceding and present years, in order to reduce them more within the faculties of the States. In support of the motion it was urged that the exorbitancy of the demands produced a despair of fulfilling them which benumbed the efforts for that purpose. On the other side it was alledged that a relaxation of the demand would be followed by a relaxation of the efforts; that unless other resources were substituted, either the States would be deluded by such a measure into false expectations, or, in case the truth s^d^ be disclosed to prevent that effect, that the Enemy w^d^ be encouraged to persevere in the war ag^st^ us. The motion meeting with little patronage it was withdrawn.

an infraction of the fifth article of the confederation, which allowed freedom of speech and debate in Congress, and as a consequence free communication of such speeches and debates to the constituents; that the facts stated concerning the foreign loans were substantially true [that they had been successful and there was danger of incurring too large a debt]; that he was not alone in his opinions; that it was unfair to report on a single paragraph of his letter and had a tendency to establish a despotism over the minority by deterring the members of it from writing freely to their constituents; that he was well known as an opponent of the five per cent. impost, and his constituents expected him to oppose it, the lower assembly of his state having unanimously rejected it; that he was accountable to his constituents and was their servant, and not the servant of Congress.—*Journals of Congress* iv., 121.

The report of the committee on the motion of Mr. Hamilton proposed that the *Secy. of Congress* should transmit to the Executive of Rhode Island the several acts of Congress with a state of foreign loans. The object of the committee was that in case Rho : Island should abet or not resent the misconduct of their Representative, as wd. most likely be the event, Congress should commit themselves as little as possible in the mode of referring it to that State. When the Report came under consideration it was observed, that the *Presidt.* had always transmitted acts of Congress to the Executives of the States, and that such a change on the present occasion might afford a pretext if not excite a disposition in Rho : Island not to vindicate the honor of Congress. The matter was compromised by substituting the *Secy. of F. A.* who *ex officio*, corresponds with the Governors &c. within whose department the facts to be transmitted as to foreign loans, lay. No motion or vote opposed the report as it passed.

SATURDAY 21 DECR.

The Committee to confer wth. Mr. Livingston was appointed the preceding day in consequence of the unwillingness of several States to elect either Genl. Schuyler, Mr. Clymer, or Mr. Read the Gentlemen previously put into nomination, and of a hint that Mr. L. might be prevailed on to serve till the spring. The Committee found him in this disposition and their report was agreed to without opposition.[1] See the Journal.

MONDAY, 23 DECR.

The motion to strike out the words "accruing to the use of the U. S.," was grounded on a denial of the principle that a capture & possession by the enemy of moveable property extinguished or effected the title of the original owners. On the other side this principle was asserted as laid down by the most approved writers, and conformable to the practice of all nations ; to which was added that if a contrary doctrine were established by Congress, innumer-

[1] See note, p. 74.

able claims would be brought forward by those whose property had, on recapture been applied to the public use.[1] See Journal.

Letters were this day rec$^{d}$ from Dr. Franklin, Mr. Jay & the Marquis de la Fayette. They were dated the 14th of Oc$^{r}$ That from the first inclosed copy of the 2$^{d}$ Comission to Mr. Oswald with sundry prelim$^{y}$ articles, and distrusted the British Court. That from the 2$^{d}$ expressed great jealousy of the French Gov$^{t}$, & referred to an intercepted letter from Mr. Marbois, opposing the claim of the U. S. to the Fisheries. This despatch produced much indignation ag$^{st}$ the author of the intercepted letter, and visible emotions in some ag$^{st}$ France. It was remarked here that our Ministers took no notice of the distinct com$^{ons}$ to Fitzherbert & Oswald; that altho' on a supposed intimacy and joined in

[1] The following letter is from Madison to Edmund Randolph, December 17, (cypher being represented by italics):

"Since the appointment of the deputation to Rho: Island Congress have rec$^{d}$ a copy of the refusal of the Legislature of that State to concur in the impost, with the reasons on which the refusal is grounded. The reasons assigned are 1$^{st}$ the inequality of the tax which will bear hardest on the commercial States, and peculiarly hard on Rho: Island which is the most commercial; 2$^{dly}$ the inexpediency of admitting to a collection within the State of so large a tax an officer unknown to the Constitution, and unaccountable to the authority of the State. 3$^{dly}$ the danger to public liberty from such an accession of weight to the federal Government. I give this recital from memory and therefore only of the substance of the objections. They are in the hands of a Committee, who will report such observations as they may deem a fit answer to them. The deputation has not yet set out, but probably will in the course of this week.

"Vermont has been again on the tapis. Its only advocates were the Delegates of Rho: Island who are charged with interested views in the case, and those of N. Jersey who are fettered by instructions from their constituents. I understand that a Mr. Tichner one of the Agents formerly here is arrived from Vermont probably in consequence of a signal given of the revolution w$^{ch}$ is taking place in the federal Councils with respect to them. A little time will display his errand.

"General Greene has referred to Congress a case which admonishes them of the necessity of a code for captures & recaptures on land as well as on water. A detachment of the Continental forces having retaken a number of Horses which had been taken by the enemy from the Citizens of S. Carolina; the Executive Authority of the State demanded a restitution, on the general principle that the Original owners were entitled to all recaptured property. This demand was laid before a Council of Officers which decided against its validity.

the same com^on^, they the Ministers, wrote *separately* & breathed opposite sentiments as to the views of France. Mr. Livingston told me that the letter of the C^t^ de Vergennes, as read to him by the Chev^r^ Luzerne, very delicately mentioned & complained that American Ministers did not in the negotiations with the British Ministers, maintain the due com. with those of France. Mr. Livingston inferred on the whole that France was sincerely anxious for peace.

The Presid^t^ acquainted Congress that C^t^ Rochambeau had communicated the intended embarkation of the French troops for the W. Indies, with an assurance from the King of France, that in case the war s^d^ be renewed ag^st^ U. S. they should immediately be sent back.

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"The General has submitted the case to Congress for their final judgment. It appears from a review of the proceedings of Congress, that a very defective provision only has been made for captures, and no provision at all for recaptures, on land. The opinion of the Council of war is conformable to the practice of the Army in like cases, and to the rules observed by other nations. The demand of restitution in favor of the original proprietors is warranted by the principles of equity and the spirit of the Ordinance relating to Captures on Water. All that Congress can do in the case will be to remit to the Original owners the prize which has been adjudged to the U. S. But some general provision for future cases will be necessary in which it will be not easy to define the species of property of which restitution may be claimed. To extend the rule to every species of property would open a door to innumerable disputes and abuses. I observed on this occasion what had escaped me before, that if Congress should establish a Court for Captures on land, such cases can come before it on *appeal.*

"Letters from *Franklin and Jay dated late in* [September] *shew that a commission has been issued to Oswald to treat with Commissioners of the Thirteen U. States, by which some 275* [key not discovered] *obstacles were surmounted; and that Spain meditates an immoderate defalcation of our Western territory.* All this *intelligence however has come to us in obscure fragments. I commit it to you as to a member of Congress on whom secrecy is enjoined and in this* cypher as *certainly* unknown *to all but official persons.*

"The inclosed Gazette will inform you of the good fortune of Captain Barry of the Alliance frigate. It appears from various letters from Europe that the Jamaica fleet has suffered severely from privateers & the storm.

"The Court at Trenton will finish their business this week it is said. The Pennsylvanians allege that the cause is going hollow in their favor.

"I have no letter from you by this post which I impute to your visit to Williamsb^g^."—*Mad. MSS.*

TUESDAY, 24 DEC^R

The letter from Mr. Jay, inclosing a copy of the intercepted letter from Marbois, was laid before Congress.[1] The tenor of it with the comments of Mr. Jay, affected deeply the sentiments of Congress with regard to France. The policy in particular manifested by France, of keeping us tractable by leaving the British in possession of posts in this country awakened strong jealousies, corroborated the charges on that subject, and with concomitant circumstances may engender the opposite extreme of the gratitude & cordiality now felt towards France; as the closest friends on a

[1] "PHILAD^A December 24^th, 1782

"MY DEAR SIR,—Since my last the Danae a French frigate has arrived from France with money for the French army and public despatches. A snow storm drove her on shore in this Bay where she was in danger of following the fate of one of the last Frigates from France. The accident as it turned out only cost her all her masts. The despatches for Congress are from Mr. Franklin, Mr. Jay, & the Marquis de la Fayette, and come down to the 14^th of Oct^r. They advise that the 1^st Commission issued to Mr. Oswald empowered him to treat with certain colonies &c., which being objected, another issued explicitly empowering him to Treat with commis^rs from *the thirteen United States*. The latter, of which a copy was inclosed, and which will be transmitted to the Executives, is grounded on the Act of Parliament, but is to continue in force no longer than July 1783. It is no doubt on the whole a source of very soothing expectations, but if we view on one side the instability & insidiousness of the British Cabinet, and, on the other the complication of interest and pretensions among the Allies, prudence calls upon us to temper our expectations with much distrust.

"Mr. Adams concluded his Treaty of Amity & Commerce on the 7^th of Oct^r, and had in hand 1½ million of florins out of the 5 million for which subscriptions had been opened. As this however was the sum *subscribed* in June last, it is no certain evidence of any other progress than that of the *payments*.

"There are accounts but neither official nor certain that Madras had been taken by the combined arms of France & Hyder Ally. ⅔ of Constantinople had been reduced to ashes by incendiaries, inspired with the desperate purpose by the public distresses and a blind revenge ag^st the Vizier who was regarded as the cause of them. The havoc suffered by the French & Spaniards in the attempt to storm Gibraltar before its relief appears to have been dreadful indeed. The loss on the English side which amounted to about 500 is a proof that the effort was a bloody one.

"Mr. Livingston has been prevailed on to hold his office for this winter. The

rupture are apt to become the bitterest foes. Much will depend however on the course pursued by Britain. The liberal one Oswald seems to be pursuing will much promote an alienation of temper in America from France. It is not improbable that the intercepted letter from Marbois came thro' Oswald's hands. If G. B., therefore, yields the fisheries & the back territory, America will feel the obligation to her not to France, who appears to be illiberal as to the 1st & favorable to Spain as to the 2d object ; and, consequently has forfeited the confidence of the States interested in either of them. Candor will suggest however that the situation of France is and has been extremely perplexing. The object of

election of a successor was within a moment of being made when the practicability of retaining his services was discovered. The gentlemen in nomination were *Genl. Schuyler* & Mr. *Clymer*. Mr. *Read* had been nominated but withdrawn.

"The deputation for Rhode Island is still here. A report that Maryland is receding with respect to the object of their mission, and information conveyed in a letter from Mr. Pendleton to me, that Virga on hearing of the unanimous refusal of R. I., had repealed her accession, by disarming them of their most pointed argument had produced great hesitation. They wait at present only for intelligence with respect to Md & Va, which was expected by yesterday's post. But the post is not even yet come. The inferences which R. I. will probably draw from Oswald's Commission are another source of apprehension. If justice & honor however preside in her Councils she will feel as much the obligation of providing for the discharge of past engagements as for contracting those which may be necessary in future. Our debts at this moment liquidated & unliquidated, cannot I conceive be less than *forty millions* Dollars. The interest therefore alone is a very serious object, and I am persuaded that unless it be raised by some plan which will operate at the same time & in due proportion throughout the Union, neither its amount nor punctuality can be confided in. Besides the other obvious causes, a jealousy is already perceived among some States that others will eventually *elude their share of the burden*. The interest on the sum borrowed by Mr. A. is now running, and soon will if a part hath not already become due. Nor is there any fund in contemplation for its payment but that of the Impost.

"*Official Cypher— The French army are embarking for the W. Indies. Count Rochambeau* says that in case *the war should be renewed against us they will instantly return*. Great efforts will I fancy be *made on that theatre unless arrested by peace*. I need not give other intimations of secrecy on these points than the nature of them, & the use of the Cypher." *(Italics for cypher)*. Madison to Edmund Randolph.—*Mad. MSS.*

her blood & money was not only the independence, but the commerce and gratitude of America; the commerce to render independence the more useful, the gratitude to render that commerce the more permanent. It was necessary therefore she supposed that America should be exposed to the cruelties of her Enemies, and be made sensible of her own weakness in order to be grateful to the hand that relieved her. This policy if discovered tended on the other hand to spoil the whole. Experience shews that her truest policy would have been to relieve America by the most direct & generous means, & to have mingled with them no artifice whatever. With respect to Spain also the situation of France has been as peculiarly delicate. The claims & views of Spain & America interfere. The former attempts of Britain to seduce Spain to a separate peace, & the ties of France with the latter whom she had drawn into the war, required her to favor Spain, at least to a certain degree, at the expence of America. Of this G. B. is taking advantage. If France adheres to Spain G. B. espouses the views of America, & endeavours to draw her off from France. If France adheres to America in her claims B. might espouse those of Spain, & produce a breach between her & France; and in either case Britain w^d^ divide her enemies. If France acts wisely, she will in this dilemma prefer the friendship of America to that of Spain. If America acts wisely she will see that she is with respect to her great interests, more in danger of being seduced by Britain than sacrificed by France.

The deputation to R. I. had set out on the 22^d^ & proceeded ½ day's journey. Mr. Nash casually mentioned a private letter from Mr. Pendleton to Mr. Madison[1] informing

[1] "PHILAD^A^ Dec^r^ 30^th^, 1782

"MY DEAR SIR

"Your favor of the 13^th^ instant arrived a few minutes after I sealed my last. That of the 20^th^ came duly to hand yesterday. The sensations excited in Mr. Jones and myself by the Repeal of the law in favor of the Impost were such as you anticipated. Previously to the receipt of your information a letter from Mr. Pendleton to me had suspended the progress of the Deputies to Rhode Island. Yours put an entire stop to the mission, until the plan or some other can be extended to the case of Virg^a^. The letter from the Gov^r^, of the same date with your last, gives a hope that our representations may regain her support

that the Legislature of Virg[a] had in consequence of the final refusal of R. I. repealed her law for the impost. As this circumstance if true destroyed in the opinion of the deputies the chief arg[t] to be used by them, viz : the unanimity of the other States, they determined to return & wait for the Southern post, to know the truth of it. The post failing to arrive on the 23[d], the usual day the deputies on this day came into Congress & stated the case. Mr. Madison read to Congress the paragraph in the letter from Mr. Pendleton. Congress verbally resolved, that the departure of the Deputies for R. I. s[d] be suspended until the further order of Congress ; Mr. Madison promising to give any information he might receive by the post. The arrival of the post immediately ensued. A letter to Mr. Madison from Mr. Randolph confirmed the fact, & was communicated to Congress. The most intelligent members were deeply affected & prognosticated a failure of the

to the impost without further steps from Congress. Your doubt as to her power of revoking her accession would, I think have been better founded, if she had not been virtually absolved by the definite rejection of Rho : Island ; altho' that rejection ought perhaps have been previously authenticated to her. I beg you to be circumstantial on this subject especially as to the parties and motives which led to the repeal, and may oppose a reconsideration.

" Mr. *Jefferson* arrived here on friday last, and is industriously arming himself for the field of negotiation. The commission issued to Mr. Oswald impresses him with a hope that he may have nothing to do on his arrival but join in the celebrations of victory & peace. Congress, however, anxiously espouse the expediency of his hastening to his destination.

" General McDougall, Col. Ogden & Colonel Brooks arrived yesterday on a mission from the army to Congress. The representations with which they are charged have not yet been handed in but I am told they breathe a proper spirit and are full of good sense. I presume they will furnish new topics in favor of the Impost which alone promises a chance of establishing that credit, by which the inadequacy of taxation can be supplied.

The French fleet and army sailed a few days ago from Boston *for the West Indies*. A storm happened soon after their departure from which it is feared they *may* have suffered.

" The ship South Carolina procured in Europe for the State after w[ch] she was called, was taken by three British ships & carried into N. Y. a few days ago. Besides the loss sustained by those interested immediately in her, her fitness for annoying our trade renders the capture a general misfortune." * * * Madison to Edmund Randolph.—*Mad. MSS.*

Impost scheme, & the most pernicious effects to the character, the duration & the interests of the Confederacy. It was at length notwithstanding determined to persist in the attempt for permanent revenue, and a Committee was appointed to report the steps proper to be taken.

A motion was made by Mr. Rutledge to strike out the salvage for recaptures on land, on the same principle as he did the words "accruing to the use of the United States." As the latter had been retained by barely 7 States, and one of these was not present the motion of Mr. Rutledge succeeded. Some of Those who were on the other side, in consequence, voted ag$^{st}$ the whole resolution & it failed. By compromise it passed as reported by the Committee.

The Grand Committee reported after another meeting with respect to the old money, that it should be rated at 40 for 1. The Chair decided on a question raised, that according to rule the blank s$^{d}$ not have been filled up by the Comittee ; so the rate was expunged.

From Tuesday 24 of Dec$^{r}$, the journals suffice untill

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MONDAY 30 DEC$^{R}$

A motion made by Mr. Clarke, seconded by Mr. Rutledge, to revise the instructions relative to negotiations for peace, with a view to exempt the American Plenipotentiaries from the obligation to conform to the advice of France. This motion was the effect of impressions left by Mr. Jay's letters, & the intercepted one from Marbois. This evidence of separate views in our Ally, and the inconsistency of that instruction with our national dignity, were urged in support of the motion. In opposing the motion, many considerations were suggested, and the original expediency of submitting the commission for peace to the Councils of France descanted upon. The reasons assigned for this expediency were that at the juncture when that measure took place the American affairs were in the most deplorable situation, the Southern States being overrun & exhausted by the enemy, & and the others more inclined to repose after their own fatigues than to exert their re-

sources for the relief of those which were the seat of the war; that the old paper currency had failed, & with it public credit itself to such a degree that no new currency could be substituted; & that there was then no prospect of introducing specie for the purpose, our trade being in the most ruinous condition, & the intercourse with the Havana in particular unopened. In the midst of these distresses the mediation of the two Imperial Courts was announced. The general idea was that the two most respectable powers of Europe would not interpose without a serious desire of peace, and without the energy requisite to effect it. The hope of peace was therefore mingled with an apprehension that considerable concessions might be exacted from America by the Mediators, as a compensation for the essential one which Britain was to submit to. Congress on a trial found it impossible from the diversity of opinions & interests to define any other claims than those of independence & the alliance. A discretionary power therefore was to be delegated with regard to all other claims. Mr. Adams was the sole minister for peace, he was personally at variance with the French Ministry; his judgment had not the confidence of some, nor his partiality in case of an interference of claims espoused by different quarters of the U. S., the confidence of others; a motion to associate with him two colleagues, to wit, Mr. Franklin & Mr. Jay, had been disagreed to by Congress; the former of these being interested as one of the Land Companies in territorial claims which had less chance of being made good in any other way than by a repossession of the vacant country by the British Crown, the latter belonging to a State interested in such arrangements as would deprive the U. S. of the navigation of the Mississippi, & turn the western trade through N. Y.; and neither of them being connected with the So. States. The idea of having five ministers taken from the whole Union was not suggested until the measure had been adopted, and communicated to the Chev[r] de Luzerne to be forwarded to France, when it was too late to revoke it. It was supposed also that Mr. Laurens then in the tower would not be out, & that Mr. Jefferson w[d] not go; & that the greater n[o] of Ministers, the greater the danger of discords & indiscretions. It was Added that as it was expected that nothing would be yielded by G. B. which was not extorted by the

address of France in managing the Mediators, and as it was the intention of Congress that their minister should not oppose a peace recommended by them & approved by France, it was thought good policy to make the declaration to France, & by such a mark of confidence to render her friendship the more responsible for the issue. At the worst it could only be considered as a sacrifice of our pride to our interest.

These considerations still justified the original measure in the view of the members who were present & voted for it. All the new members who had not participated in the impressions which dictated it and viewed the subject only under circumstances of an opposite nature, disapproved it. In general however the latter joined with the former in opposing the motion of Mr. Clarke, arguing with them that supposing the instruction to be wrong, it was less dishonorable, than the instability that w^d^ be denoted by rescinding it; that if G. B. was disposed to give us what we claimed France could not prevent it; that if G. B. struggled ag^st^ those claims our only chance of getting them was thro' the aid of France; that to withdraw our confidence would lessen the chance & degree of this aid; that if we were in a prosperous or safe condition compared with that in which we adopted the expedient in question, this change had been effected by the friendly succors of our Ally, & that to take advantage of it to loosen the tie, would not only bring on us the reproach of ingratitude, but induce France to believe that she had no hold on our affections, but only in our necessities; that in all possible situations we s^d^ be more in danger of being seduced by G. B., than of being sacrificed by France; the interests of the latter in the main necessarily coinciding with ours, and those of the former being diametrically opposed to them, that as to the intercepted letter, there were many reasons which indicated that it came through the hands of the Enemy to Mr. Jay that it ought therefore to be regarded even if genuine, as communicated for insidious purposes; but that there was strong reason to suspect that it had been adulterated if not forged; and that on the worst supposition, it did not appear that the doctrines maintained or the measures recommended in it had been adopted by the French Ministry and consequently that they ought not to be held responsible for them.

Upon these considerations it was proposed by Mr. Wolcott, 2^ded^ by Mr. Hamilton that the motion of Mr. Clarke should be postponed, which took place without a vote.

Mr. Madison moved that the letter of Doc^r^ Franklin, of the 14 Oct^r^, 1782 should be referred to a Committee, with a view of bringing into consideration the preliminary article proposing that British subjects & American Citizens s^d^ reciprocally have in matters of commerce the privilege of natives of the other party ; and giving to the American Ministers the instruction which ensued on that subject. This motion succeeded, and the committee appointed consisted of Mr. Madison Mr. Rutledge, Mr. Clarke, Mr. Hamilton & Mr. Osgood.

The contract of Gen^l^ Wayne [1] was confirmed with great reluctance ; being considered as being improper with respect to its being made with individuals, as admitting of infinite abuses, as out of his military line, and as founded on a principle that a present commerce with G. B. was favorable to the U. S. a principle reprobated by Congress & all the States. Congress however supposed that these considerations ought to yield to the necessity of supporting the measures which a valuable officer from good motives, had taken upon himself.

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TUESDAY, DEC^R^ 31, 1782

The report of the Committee made in consequence of Mr. Madison's motion yesterday instructing the Ministers plenipo on the article of commerce, passed unanimously as follows : "*Resolved*, That the Ministers Plenipo for negotiating peace be

[1] Fitzsimmons, Madison and Rutledge were the committee making the report. The agreement made the previous August, with the consent of the governor and executive of Georgia, was with certain Savannah merchants, "subjects of the crown of Great Britain," permitting them to remain unmolested and to dispose of their effects to citizens of the United States, and "to export produce of the state of Georgia to the amount of the goods so disposed of to the next British post." Congress ordered "that all commanders of armed vessels, in the service of the United States, or belonging to any of the inhabitants thereof, do pay due regard to the passports which have or shall be given by the governor of the state of Georgia for the purpose aforesaid."—*Journals of Congress*, iv., 127.

instructed in any commercial stipulations with G. B. which may be comprehended in a Treaty of peace to endeavour to obtain for the Citizens and inhabitants of the U. S. a direct commerce to all parts of the British Dominions & Possessions, in like manner as all parts of the U. S. may be opened to a direct Commerce of British subjects; or at least that such direct Commerce be extended to all parts of the British Dominions & possessions in Europe & the West Indies; and the said Ministers are informed that this stipulation will be particularly expected by Congress, in case the Citizens & subjects of each party are to be admitted to an equality in matters of commerce with natives of the other party.

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WEDNESDAY JAN.Y IST, 1783

The decision of the controversy between Con. & Penn.a was reported.

The communications made from the Minister of France, concurred with other circumstances in effacing the impressions made by Mr. Jay's letter & Marbois's inclosed. The vote of thanks to C.t Rochambeau passed with unanimity & cordiality & afforded a fresh proof that the resentment against France had greatly subsided.

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THURSDAY JAN.Y 2.d

Nothing requiring notice.

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FRIDAY 3.d JANY.

The vote of thanks to the Minister of France which passed yesterday was repealed in consequence of his having expressed to the President a desire that no notice might be taken of his conduct as to the point in question & of the latter's communicating the same to Congress. The temper of Congress here again manifested the transient nature of their irritation ag.st France.

The motion of Mr. Howel, put on the Secret Journal gave Congress a great deal of vexation. The expedient for baffling his scheme of raising a ferment in his State & exposing the foreign

transactions was adopted only in the last resort; it being questioned by some whether the articles of Confederation warranted it.

The answer to the note of the French Minister passed unanimously & was a further testimony of the Abatement of the effects of Mr. Jay's letter &c.

The proceedings of the Court in the dispute between Con$^{t}$ & P$^{a}$ were after debates as to the meaning of the Confederation in directing such proceeding to be lodged among the acts of Congress entered at large on the Journals. It was remarked that the Delegates from Con$^{t}$ particularly Mr. Dyer were more captious on the occasion than was consistent with a perfect acquiescence in the decree.

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MONDAY, JAN$^{Y}$ 6TH.

The Memorial from the Army was laid before Congress and referred to a grand Committee. This reference was intended as a mark of the important light in which the memorial was viewed.[1]

Mr. Berkley having represented some inconveniences incident to the plan of a Consular Convention between France & U. S., particularly the restriction of Consuls from trading & his letter having been committed, a report was made purposing that the Convention should for the present be suspended. To this it had been objected that as the convention might already be concluded such a step was improper; and as the end might be obtained by authorizing the Minister at Versailles to propose particular altera-

[1] "The deputation from the army, which arrived here a few days ago, have laid their grievances before Congress. They consist of sundry articles, the capital of which are, a defect of an immediate payment, and of satisfactory provision for completing the work hereafter. How either of these objects can be accomplished, and what will be the consequence of failure, I must leave to your own surmises. I wish the disquietude excited by the prospect, was the exclusive portion of those who impede the measures calculated for redressing complaints against the justice and gratitude of the public.

"The Resolution of the House of Delegates against restitution of confiscated effects is subject to the remark you make. The preliminary requisition of an acknowledgment of our independence, in the *most ample manner*, seems to be still more incautious, since it disaccords with the Treaty of Alliance which admits the sufficiency of a tacit acknowledgment." Madison to Edmund Randolph, Jany. 7, 1783. From the Madison Papers (1840).

tions that it was unnecessary. By Mr. Madison it had been moved that the report should be postponed to make place for the consideration of an instruction & authority to the s^d^ Minister for that purpose ; and this motion had in consequence been brought before Congress. On this day the business revived. The sentiments of the members were various, some wishing to suspend such part of the convention only as excluded Consuls from commerce ; others thought this exclusion too important to be even suspended ; others again thought the whole ought to be suspended during the war ; & others lastly contended that the whole ought to be new modelled ; the Consuls having too many privileges in some respects, & too little power in others. It was observable that this diversity of opinions prevailed chiefly among the members who had come in since the Convention had been passed in Congress ; the members originally present adhering to the views which then governed them. The subject was finally postponed ; 8 States only being represented, & 9 being requisite for such a question. Even to have suspended the convention after it had been proposed to the Court of France, & possibly acceded to would have been indecent and dishonorable ; and at a juncture when G. B. was courting a commercial intimacy, to the probable uneasiness of France, of very mischievous tendency. But experience constantly teaches that new members of a public body do not feel the necessary respect or responsibility for the acts of their predecessors, and that a change of members & of *circumstances* often proves fatal to consistency and stability of public measures. Some conversation in private by the old members with the most judicious of the new in this instance has abated the fondness of the latter for innovations, and it is even problematical whether they will be again urged.

In the evening of this day the grand Committee met and agreed to meet again the succeeding evening for the purpose of a conference with the Superintend^t^ of Finance.

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TUESDAY, JAN^Y^ 7TH, 1783.

See the Journals.

In the evening the grand Committee had the assigned conference with Mr. Morris who informed them explicitly that it was

impossible to make any advance of pay in the present state of the finances to the army and imprudent to give any assurances with respect to future pay until certain funds should be previously established. He observed that if even an advance could be made it w^d^ be unhappy that it s^d^ appear to be the effect of demands from the army ; as this precedent could not fail to inspire a distrust of the spontaneous justice of Congress & to produce repetitions of the expedient. He said that he had taken some measures with a view to a payment for the army which depended on events not within our command, that he had communicated these measures to Gen^l^ Washington under an injunction of secrecy, that he could not yet disclose them without endangering their success ; that the situation of our affairs within his department was so alarming that he had thoughts of asking Congress to appoint a Confidential Committee to receive communications on that subject and to sanctify by their advice such steps as ought to be taken. Much loose conversation passed on the critical state of things the defect of a permanent revenue, & the consequences to be apprehended from a disappointment of the mission from the army ; which ended in the appointment of friday evening next for an audience to General McDougall, Col. Brooks & Col. Ogden, the Deputies on the subject of the Memorial, the Superintend^t^ to be present.

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WEDNESDAY JAN^Y^ 8, THURSDAY JAN^Y^ 9TH, & FRIDAY JAN^Y^ 10

On the Report [1] for valuing the land conformably to the rule laid down in the federal articles, the Delegates from Connecticut contended for postponing the subject during the war, alledging the impediments arising from the possession of N. Y., &c. by the enemy ; but apprehending (as was supposed) that the flourishing State of Connecticut compared with the Southern States, would render a valuation at the crisis unfavorable to the former. Others, particularly Mr. Hamilton and Mr. Madison, were of

[1] This proposed to require the States to value the land and return the valuations to Congress. The above to be a marginal note. [Note in Madison's hand.]

opinion that the rule of the confederation was a chimerical one since if the intervention of the individual States were employed their interests would give a bias to their judgments, or that at least suspicions of such bias w^d^ prevail and without their intervention, it could not be executed but at an expense, delay & uncertainty which were inadmissible; that it would perhaps be therefore preferable to represent these difficulties to the States & recommend an exchange of this rule of dividing the public burdens for one more simple easy & equal. The Delegates from S. Carolina generally & particularly Mr. Rutledge advocated the propriety of the constitutional rule & of an adherence to it, and of the safety of the mode in question arising from the honor of the States. The debates on the subject were interrupted by a letter from the Superintendent of Finance; informing Congress that the situation of his department required that a committee s^d^ be appointed with power to advise him on the steps proper to be taken; and suggesting an appointment of one consisting of a member from each State, with authority to give their advice on the subject. This expedient was objected to as improper, since Congress w^d^ thereby delegate an incommunicable power, perhaps, and would at any rate lend a sanction to a measure without even knowing what it was; not to mention the distrust which it manifested of their own prudence & fidelity. It was at length proposed & agreed to, that a special committee consisting of Mr. Rutledge Mr. Osgood & Mr. Madison, should confer with the Superintend^t^ of Finance on the subject of his letter and make report to Congress. After the adjournment of Congress this Committee conferred with the Superintend^t^ who after being apprized of the difficulties which had arisen in Congress, stated to them that the last account of our money affairs in Europe shewed that contrary to his expectations and estimates there were $3\frac{1}{2}$ Millions of livres short of the bills actually drawn; that further drafts were indispensable to prevent a stop to the public service; that to make good this deficiency there was only the further success of Mr. Adams' loan and the friendship of France to depend on, that it was necessary for him to decide on the expediency of his staking the public credit on those contingent funds by further drafts, and that in making this decision he wished for the sanction

of a committee of Congress ; that this sanction was preferable to that of Congress itself only as it w^d confide the risk attending bills drawn on such funds to a smaller number, and as secrecy was essential in the operation as well to guard our affairs in general from injury, as the credit of the bills in question from debasement. It was supposed both by the Superintend^t & the Comittee that there was in fact little danger of bills drawn on France on the credit of the loan of 4 Millions of dollars, applied for, being dishonored ; since if the negotiations on foot were to terminate in peace, France would prefer an advance in our favor to exposing us to the necessity of resorting to G. B. for it ; and that if the war s^d continue the necessity of such an aid to its prosecution would prevail. The result was that the Committee should make such report as would bring the matter before Congress under an injunction of secrecy, and produce a resolution authorizing the Superintend^t to draw bills as the public service might require on the credit of applications for loans in Europe. The report of the Committee to this effect was the next day accordingly made & adopted unanimously. Mr. Dyer alone at first opposed it as an unwarrantable & dishonorable presumption on the ability & disposition of France ; being answered however that without such a step or some other exped^t which neither he nor any other had suggested, our credit would be stabbed abroad and the public service wrecked at home ; and that however mortifying it might be to commit our credit, our faith & our honor to the mercy of a foreign nation, it was a mortification w^ch c^d not be avoided without endangering our very existence ; he acquiesced and the resolution was entered unanimously. The circumstance of unanimity was thought of consequence as it w^d evince the more the necessity of the succour and induce France the more readily to yield it. On this occasion several members were struck with the impropriety of the late attempt to withdraw from France the trust confided to her over the terms of peace when we were under the necessity of giving so decisive a proof of our dependence upon her. It was also adverted to in private conversation as a great unhappiness that during negotiations for peace, when an appearance of vigor & resource were so desirable, such a proof of our poverty & imbecility could not be avoided.

The conduct of Mr. Howel &c. had led several & particularly Mr. Peters into an opinion that some further rule & security ought to be provided for concealing matters of a secret nature. On the motion of Mr. Peters a committee composed of himself Mr. Williamson &c. was appointed to make a report on the subject. On this day the report was made. It proposed that members of Congress should each subscribe an instrument pledging their faith & honor not to disclose certain enumerated matters.

The enumeration being very indistinct and objectionable, and a written engagement being held insufficient with those who without it w^d^ violate prudence or honor, as well as marking a general distrust of the prudence & honor of Congress, the report was generally disrelished ; and after some debate in which it was faintly supported by Mr. Williamson, the Committee asked & obtained leave to withdraw it.

A discussion of the report on the mode of valuing the lands was revived. It consisted chiefly of a repetition of the former debates.

In the evening according to app^t^ on tuesday last, the grand Committee met, as did the Superintend^t^ of Finance. The chairman Mr. Wolcot informed the committee that Col^s^ Ogden & Brooks two of the deputies from the army had given him notice that Gen^l^ McDougal the first of the deputation, was so indisposed with the rheumatism as to be unable to attend, and expressed a desire that the Comittee would adjourn to his lodging at the Indian queen tavern the deputies being very anxious to finish their business among other reasons, on acc^t^ of the scarcity of money with them. At first the Comittee seemed disposed to comply ; but it being suggested that such an adjournment by a Comittee of a member from each State would be derogatory from the respect due to themselves, especially as the Mission from the army was not within the ordinary course of duty, the idea was dropped. In lieu of it they adjourned to Monday evening next, on the ostensible reason of the extreme badness of the weather which had prevented the attendance of several members.

MONDAY JAN$^{Y}$ 13

Report on the valuation of land was referred to a Grand Committee.

A motion was made by Mr. Peters, 2$^{ded}$ by Mr. Madison, "that a com$^{ite}$ be appointed to consider the expediency of making further applications for loans in Europe, & to confer with the Superin$^{t}$ of Finance on the subject." In support of this motion Mr. P. observed that notwithstanding the uncertainty of success the risk of appearing unreasonable in our demands on France, and the general objections ag$^{st}$ indebting the U. S. to foreign nations, the crisis of our affairs demanded the experiment; that money must if possible be procured for the army and there was ground to expect that the C$^{t}$ of France w$^{d}$ be influenced by an apprehension that in case of her failure & of a pacification G. B. might embrace the opportunity of substituting her favors. Mr. Madison added that it was expedient to make the trial because if it failed, our situation c$^{d}$ not be made worse, that it would be prudent in France & therefore it might be expected of her, to afford the U. S. such supplies as would enable them to disband their army in tranquillity, lest some internal convulsions might follow external peace, the issue of which ought not to be hazarded, that as the affections & gratitude of this Country as well as its separation from G. B. were her objects in the Revolution, it would also be incumbent on her to let the army be disbanded under the impression of deriving their rewards through her friendship to their Country; since their temper on their dispersion through the several States and being mingled in the public councils, would much affect the general temper towards France; and that if the pay of the army could be converted into a consolidated debt bearing interest, the requisitions on the States for the principal might be reduced to requisitions for the interest, and by that means a favorable revolution so far introduced into our finances.

The Motion was opposed by Mr. Dyer because it was improper to augment our foreign debts, & would appear extravagant to France. Several others assented to it with reluctance, and several others expressed serious scruples as honest men ag$^{st}$ levying

contributions on the friendship or fears of France or others, whilst the unwillingness of the States to invest Congress with permanent funds rendered a repayment so precarious. The motion was agreed to, and the Comittee chosen—Mr. Gorham, Mr. Peters, Mr. Izard.

In the evening according to appointment the Grand Committee gave an audience to the deputies of the army,[1] viz: Gen[l] McDougal & Col[s] Ogden & Brooks. The first introduced the subject by acknowledging the attention manifested to the representations of the army by the app[t] of so large a Comittee; his observations turned chiefly on the 3 chief topics of the Memorial, namely an immediate advance of pay, adequate provision for the residue, and half-pay.—On the first he insisted on the absolute necessity of the measure to soothe the discontents both of the officers & soldiers, painted their sufferings & services, their successive hopes & disappointments throughout the whole war, in very high-colored expressions, and signified that if a disappointment were now repeated the most serious consequences were to be apprehended; that nothing less than the actual distresses of the army would have induced at this crisis so solemn

[1] "PHILAD[A] Jany 14, 1783

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"The deputies from the army are still here. The explanations which they have given to a Committee on the topics of the memorial are of the most serious nature. I wish they could with propriety be promulged throughout the U. S. They would I am sure at least put to shame all those who have laboured to throw a fallacious gloss over our public affairs, and counteracted the measures necessary to y[e] real prosperity of them.

"The deliberations of Congress have been turned pretty much of late on the valuation of lands prescribed by the articles of confederation. The difficulties which attend that rule of apportionment seem on near inspection to be in a manner insuperable. The work is too vast to be executed without the intervention of the several states, and if their intervention be employed, all confidence in an impartial execution is at end.

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"Mr. Jefferson has not yet taken his departure. We hope the causes which have prevented it will not continue many days longer."—Madison to Edmund Randolph, *Mad. MSS.*

an application to their country ; but y^t^ the seeming approach of peace, and the fear of being still more neglected when the necessity of their services should be over, strongly urged the necessity of it. His two colleagues followed him with a recital of various incidents & circumstances tending to evince the actual distresses of the army, the irritable state in which the deputies left them, and the necessity of the consoling influence of an immediate advance of pay. Colonel Ogden said he wished not indeed, to return to the army if he was to be the messenger of disappointment to them. The deputies were asked 1^st^ what particular steps they supposed would be taken by the army in case no pay c^d^ be immediately advanced ; to which they answered that it was impossible to say precisely ; that although the Sergeants & some of the most intelligent privates had been often observed in sequestered consultations, yet it was not known that any premeditated plan had been formed ; that there was sufficient reason to dread that at least a mutiny would ensue, and the rather as the temper of the officers at least those of inferior grades, would with less vigor than heretofore struggle ag^st^ it. They remarked on this occasion, that the situation of the officers was rendered extremely delicate & had been sorely felt, when called upon to punish in soldiers a breach of engagements to the public which had been preceded by uniform & flagrant breaches by the latter of its engagements to the former. General McDougal said that the army were verging to that state which we are told will make a wise man mad, and Col : Brooks said that his apprehensions were drawn from the circumstance that the temper of the army was such that they did not reason or deliberate cooly on consequences & therefore a disappointment might throw them blindly into extremities. They observed that the irritations of the army had resulted in part from the distinctions made between the Civil & military lists the former regularly receiving their salaries, and the latter as regularly left unpaid. They mentioned in particular that the members of the Legislatures would never agree to an adjournment with[out] paying themselves fully for their services. In answer to this remark it was observed that the Civil officers on the average did not derive from their appointments more than the means of their subsistence ; and that the military altho not furnished with their

pay properly so called were in fact furnished with the same necessaries.

On the 2$^{d}$ point to wit "adequate provision for the general arrears due to them," the deputies animadverted with surprise, and even indignation on the repugnance of the States, some of them at least, to establish a federal revenue for discharging the federal engagements. They supposed that the ease not to say affluence with w$^{ch}$ the people at large lived sufficiently indicated resources far beyond the actual exertions, and that if a proper application of these resources was omitted by the Country & the army thereby exposed to unnecessary sufferings, it must natural[ly] be expected that the patience of the latter w$^{d}$ have its limits. As the deputies were sensible that the general disposition of Congress strongly favored this object, they were less diffuse on it. Gen$^{l}$ McDougal made a remark w$^{ch}$ may deserve the greater attention as he stepped from the tenor of his discourse to introduce it, and delivered it with peculiar emphasis. He said that the most intelligent & considerate part of the army were deeply affected at the debility and defects in the federal Gov$^{t}$, and the unwillingness of the States to cement & invigorate it; as in case of its dissolution, the benefits expected from the Revolution w$^{d}$ be greatly impaired, and as in particular, the contests which might ensue am$^{g}$ the States would be sure to embroil the officers which respectively belong to them.

On the 3$^{d}$ point to wit "half-pay for life," they expressed equal dissatisfaction at the States which opposed it observing that it formed a part of the wages stipulated to them by Congress & was but a reasonable provision for the remnant of their lives which had been freely exposed in the defence of their Country, and would be incompatible with a return to occupations & professions for which military habits of 7 years standing unfitted them. They complained that this part of their reward had been industriously and artfully stigmatized in many States with the name of pension, altho' it was as reasonable that those who had lent their blood and services to the public s$^{d}$ receive an annuity thereon, as those who had lent their money; and that the officers whom new arrangements had from time to time excluded, actually labored under the opprobrium of pensioners, with the additional mortification of

not receiving a shilling of the emolum$^{s}$. They referred however to their Memorial to show that they were authorized & ready to commute their half-pay for any equivalent & less exceptionable provision.

After the departure of the Deputies, the Grand Committee appointed a sub-committee, consisting of Mr. Hamilton, Mr. Madison, & Mr. Rutledge to report arrangements, in concert with the Superintend$^{t}$ of Finance for their consideration.

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TUESDAY JAN$^{Y}$ 15$^{th}$ [14$^{th}$] 1783

Congress adjourned for the meeting of The Grand Committee to whom was referred the report concerning the valuation of the lands and who accordingly met.

The Committee were in general strongly impressed with the extreme difficulty & inequality if not impracticability of fulfilling the article of the Confederation relative to this point ; Mr. Rutledge however excepted, who altho' he did not think the rule so good a one as a census of inhabitants, thought it less impracticable than the other members. And if the valuation of land had not been prescribed by y$^{e}$ federal articles, the Committee w$^{d}$ certainly have preferred some other rule of appointment, particularly that of numbers under certain qualifications as to Slaves. As the federal Constitution however left no option, & a few [1] only were disposed to recommend to the States an alteration of it, it was necessary to proceed 1$^{st}$ to settle its meaning—2$^{dly}$ to settle the least objectionable mode of valuation. On the first point, it was doubted by several members whe$^{r}$ the returns which the report under consideration required from the States would not be final and whether the Art$^{s}$ of Conf$^{n}$ w$^{d}$ allow Congress to alter them after they had fixed on this mode ; on this point no vote was taken. A 2$^{d}$ question afterwards raised in the course of the discussion was how far the Art required a specific valuation, and

[1] Mr. Hamilton was most strenuous on this point. Mr. Wilson also fav$^{d}$. the idea. Mr. M[adison] also but restrained in some measure, by the declared sense of Vir$^{a}$. Mr. Ghoram, & several others also, but wishing previous experience. [Note in MS.]

how far it gave a latitude as to the mode, on this point also there was a diversity of opinions; but no vote taken.

2dly As to the mode itself referred to the Gd Come, it was strongly objected to by the Delegate from Cont, Mr. Dyer—by Mr. Hamilton,— by Mr. Wilson by Mr. Carol, & by Mr. Madison, as leaving the States too much to the bias of interest, as well as too uncertain & tedious in the execution. In favr of the Rept was Mr. Rutledge the father of it, who thought the honor of the States & their mutual confidence a sufficient security agst frauds & the suspicion of them. Mr. Ghoram favd the report also, as the least impracticable mode, and as it was necessary to attempt at least some compliance with the federal rule before any attempt could be properly made to vary it. An opinion entertained by Massachusetts that she was comparatively in advance to the U. S. made her anxious for a speedy settlement of the mode by which a final apportionment of the common burden cd be effected. The sentiments of the other members of the Committee were not expressed.

Mr. Hamilton proposed in lieu of a reference of the valuation to the States, to class the lands throughout the States under distinctive descriptions, viz : arable, pasture, wood, &c. and to annex a uniform rate to the several classes according to their different comparative value, calling on the States only for a return of the quantities & descriptions. This mode would have been acceptable to the more compact & populous States, but was totally inadmissible to the Southern States.

Mr. Wilson proposed that returns of the quantity of land & of the number of inhabitants in the respective States sd be obtained, and a rule deducted from the combination of these data. This also would have affected the States in a similar manner with the proposition of Mr. Hamilton. On the part of the S. States it was observed that besides its being at variance with the text of the Confederation it would work great injustice, as would every mode which admitted the quantity of lands within the States, into the measure of their comparative wealth and abilities.

Lastly it was proposed by Mr. Madison, that a valuation shd be attempted by Congress without the intervention of the States. He observed that as the expense attending the operation would come ultimately from the same pockets, it was not very material

whether it was borne in the first instance by Congress or the States, and it at least deserved consideration whether this mode was not preferable to y^e^ proposed reference to the States.

The conversation ended in the app^t^ of a sub-committee consisting of Mr. Madison, Mr. Carol & Mr. Wilson who were desired to consider the several modes proposed, to confer with the Superintend^t^ of Finance, & make such report to the G^d^ Com^e^ as they sh^d^ judge fit.

WEDNESDAY, JAN^Y^ 15

A letter dated the 19^th^ of December from Gen^l^ Greene was rec^d^ notifying the evacuation of Charleston. It was in the first place referred to the Sec^y^ of Cong^s^ for publication ; excepting the passage which recited the exchange of prisoners, which being contrary to the Resolution of the 16 of Oc^r^ ag^st^ partial exchanges, was deemed improper for publication. It was in the next place referred to a com^e^, in order that some complimentary report might be made in favor of Gen^l^ Greene & the South^n^ army. Doc^r^ Ramsay hav^g^ come in after this reference and being uninformed of it, moved that a committee might be appointed to devise a proper mode of expressing to Gen^l^ Greene the high sense entertained by Congress of his merits & services. In support of his motion he went into lavish praises of G^l^ Greene, and threw out the idea of making him a Lieuten^t^ General. His motion being opposed as somewhat singular and unnecessary after the reference of Gen^l^ Greene's letter, he withdrew it.

A letter was re^d^ from Gen^l^ Washington inclosing a certificate from Mr. Chittenden of Vermont acknowledging the receipt of the communication which G^l^ Washington had sent him of the proceedings of Congress on the [fifth] of [December.][1]

[1] On that day Congress resolved, that, whereas the people inhabiting the west side of the Connecticut River commonly known as the New Hampshire Grants had undertaken to exercise jurisdiction over certain persons who professed to be citizens of New York, such proceedings were highly derogatory to the authority of the United States and dangerous to the confederacy. It was ordered that restitution be made and that a copy of the resolutions be sent to Thomas Chittenden, Esq., of Bennington, to be communicated to the people. — *Journals of Congress*, iv., 112.

THURSDAY JAN.Y 16

Mr. Rutledge informed Congress that there was reason to apprehend that the train of negotiation in Europe had been so misrepresented in the State of S. Carolina as to make it probable that an attempt might be made in the Legislature to repeal the confiscation laws of that State, & even if such attempt sh.d fail, the misrepresentations c.d not fail to injure the sale of property confiscated in that State. In order therefore to frustrate these misrepresentations he moved that the Delegates of S. Carolina might be furnished with an extract from the letter of the 14.th of Oc.r from Doc.r Franklin, so far as it informed Congress "that something had been mentioned to the American Plenipotentiaries relative to the Refugees & to English debts, but not insisted on; it being answered on their part that this was a matter belonging to the individual States and on which Congress c.d enter into no stipulations." The motion was 2.ded by Mr. Jarvais, & supported by Mr. Ramsay. It was opposed by Mr. Ellsworth & Mr. Wolcott as improper, since a communication of this intelligence might encourage the States to extend confiscations to British debts, a circumstance which w.d be dishonorable to the U. S., & might embarrass a treaty of peace. Mr. Fitzsimmons expressed the same apprehensions, so did Mr. Ghoram. His Colleague Mr. Osgood was in fav.r of the motion. By Mr. Madison the motion was so enlarged and varied as "to leave *all* the delegates at liberty to communicate the extract to their const.ents in such form & under such cautions as they sh.d judge prudent." The Motion so varied was adopted by Mr. Rutledge, & substituted in place of the original one. It was however still opposed by the Opponents of the original motion. Mr. Madison observed that as all the States had espoused in some degree the doctrine of confiscations, & as some of them had given instructions to their delegates on the subject, it was the duty of Congress without inquiring into the expediency of Confiscations, to prevent as far as they c.d any measures which might impede that object in negotiations for peace, by inducing an opinion that the U. S. were not firm with respect to it; that in this view it was of consequence to prevent the repeal & even the attempt of a repeal of

the confiscation law of one of the States and that if a confidential communication of the extract in question would answer such a purpose, it was improper for Congress to oppose it. On a question the motion was negatived, Congress being much divided thereon. Several of those who were in the negative, were willing that the Delegates of S. Carolina sh$^{d}$ be licensed to transmit to their State what related to the Refugees, omitting what related to British debts and invited Mr. Rutledge to renew his motion in that qualified form. Others suggested the propriety of his contradicting the misrepresentations in general without referring to any official information rec$^{d}$ by Congress. Mr. R. said he w$^{d}$ think further on the subject, and desired that it might lie over.

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FRIDAY JAN$^{Y}$ 17TH.

The Com$^{ite}$ on the motion of Mr. Peters of the [thirteenth] day of [January] relative to a further application for foreign loans, reported that they had conferred with the Superintend$^{t}$ of Finance, & concurred in opinion with him, that the applications already on foot were as great as could be made prudently, until proper funds should be established. The latent view of this report was to strengthen the arg$^{t}$ in fav$^{r}$ of such funds, and the report it was agreed should lie on the table to be considered along with the report which might be made on the memorial from the army, & which w$^{d}$ involve the same subject.

The report thanking Gen$^{l}$ Greene for his services was agreed to without opposition or observation. Several however thought it badly composed, and that some notice ought to have been taken of Maj$^{r}$ Burnet Aid to G$^{l}$ G., who was the bearer of the letter announcing the evacuation of Charleston.

Mr. Webster & Mr. Judd agents for the deranged officers of the Massachusetts & Con$^{t}$ lines were heard by the G$^{d}$ Committee in fav$^{r}$ of their Constituents. The sum of their representations was that the s$^{d}$ officers were equally distressed for, entitled to, & in expectation of provision for fulfilling the rewards stipulated to them, as officers retained in service.

FROM FRIDAY 17 TO TUESDAY 21ST.

See Journals.

A letter from Mr. Adams, of the 8th day of October 1782 containing prophetic observations relative to the expedition of Ld Howe for the relief of Gibraltar & its consequences &c &c., excited &c &c

Another letter from do, relative to ye Treaty of Amity & Commerce & ye Convention with the States Genl concerning vessels recaptured, copies of which accompanied the letters. These papers were committed to Mr. Madison Mr. Hamilton & Mr. Ellsworth.

Wednesday January 22 Congress adjourned to give the Come on the Treaty & Convention time to prepare a report thereon.

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THURSDAY JANUARY 23

The Report of the Come last mentioned consisting of a state of the variations in the Treaty of Amity & Commerce with the States General from the plan proposed by Congress, of a form of ratification of the sd Treaty & of the Convention, & of a proclamation comprehending both was accepted & passed; the variations excepted wch were not meant to be entered on the journals. Both the Committee & Congress were exceedingly chagrined at the extreme incorrectness of the American copies of these national acts, and it was privately talked of as necessary to admonish Mr. Adams thereof, & direct him to procure with the concurrence of the other party a more correct & perspicuous copy. The Report of the Come as agreed to havg left a blank in the act of ratification for the insertion of the Treaty & Convention, & these being contained both in the Dutch & American languages the former column signed by the Dutch Plenipos only & the latter by Mr. Adams only, the Secy asked the direction of Congress whether both columns or the American only ought to be inserted. On this point several observations were made & different opinions expressed. In general the members seemed to disapprove of ye mode used & wd he preferred ye use of a neutral language. As to the request of the Secy, Mr. Wilson was of opinion that the American columns only sd be inserted. Several others concurred in this opinion; supposing

that as Mr. Adams had only signed those columns, our ratifications ought to be limited to them. Those who were of a different opinion, considered the two parts as inseparable & as forming one whole, & consequently that both ought to be inserted. The case being a new one to Congress, it was proposed & admitted that the insertion might be suspended till the next day, by which time some authorities might be consulted on the subject.

A com^e^, consisting of Mr. Madison, Mr. Mifflin & Mr. Williamson reported in consequence of a motion of Mr. Bland, a list of books proper for the use of Congress, and proposed that the Sec^y^ should be instructed to procure the same. In fav^r^ of the Rep^t^ it was urged as indispensable that Congress sh^d^ have at all times at comand such authors on the law of Nations, treaties, Negotiations &c as w^d^ render their proceedings in such cases conformable to propriety ; and it was observed that the want of this information was manifest in several important acts of Congress. It was further observed that no time ought to be lost in collecting every book & tract which related to American antiquities & the affairs of the U. S., since many of the most valuable of these were every day becoming extinct, & they were necessary not only as materials for a Hist : of the U. S., but might be rendered still more so by future pretensions ag^st^ their rights from Spain or other powers which had shared in the discoveries & possessions of the New World. Ag^st^ the Report were urged 1^st^ the inconvenience of advancing even a few hundred pounds at this crisis ; 2^dly^, the difference of expence between procuring the books during the war & after a peace. These objections prevailed, by a considerable majority. A motion was then made by Mr. Wilson, 2^ded^ by Mr. Madison, to confine the purchase for the present to the most essential part of the books. This also was negatived.

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FRIDAY JAN^Y^ 24TH.

Some days prior to this sundry papers had been laid before Congress by the War office, shewing that a Cargo of supplies which had arrived at Wilmington for the British & German Prisoners of War under a passport from the Comander in chief and which were thence proceeding by land to their destination, had

been seized by sundry persons in Chester County under a law of Penns.ª, which required in such cases a license from the Executive authority, which exposed to confiscation all Articles not *necessary* for the prisoners, & refer.d the question of necessity to the judgment of its own Magistrates. Congress unanimously considered the violation of the passport issued under y.r Authority as an encroachment on their constitutional & essential rights; but being disposed to get over the difficulty as gently as possible appointed a Com.e, consisting of Mr. Rutledge, Mr. Wolcot & Mr. Madison, to confer with the Executive of P.ª on the subject. In the first conference the Executive represented to the Committee the concern they felt at the incident, their disposition to respect & support the dignity & rights of the federal Sovereignty; and the embarrassments in which they were involved by a recent & express law of the State to which they were bound to conform. The Com.e observed to them that the power of granting passports for the purpose in question being inseparable from the general power of war delegated, to Congress, & being essential for conducting the war, it could not be expected that Congress w.d acquiesce in any infractions upon it; that as P.ª had concurred in the alienation of this power to Congress, any law whatever contravening it was necessarily void, and c.d impose no obligation on the Executive. The latter requested further time for a consideration of the case & laid it before the Legislature then sitting; in consequence of which a Com.e of their body was app.d, jointly with the Executive to confer with the Committe of Congress. In this 2.d conference the first remarks made by the Com.e of Congress were repeated. The Com.e of the Legislature expressed an unwillingness to entrench on the jurisdiction of Congress, but some of them seemed not to be fully satisfied that the law of the State did so. Mr. Montgomery lately a member of Congress observed that altho' the general power of war was given to Congress yet that the mode of exercising that power might be regulated by the States in any manner which w.d not frustrate the power, & which their policy might require. To this it was answered that if Congress had the power at all, it could not either by the Articles of Confederation or the reason of things admit of such a controuling power in each of the States, & that to admit such a construction

w^d be a virtual surrender to the States of their whole federal power relative to war, the most essential of all the powers delegated to Congress. The Com^e of the Legis^re represented as the great difficulty with them, that even a repeal of the law w^d not remedy the case without a retrospective law which their Constitution w^d not admit of, & expressed an earnest desire that some accommodating plan might be hit upon. They proposed in order to induce the Seizors to waive their appeal to the law of the State, that Congress w^d allow them to app^t one of two persons who s^d have authority to examine into the supplies & decide whether they comprehended any articles that were not warranted by the passport. The Com^e of Congress answered that whatever obstacles might lie in the way of redress by the Legislature if no redress proceeded from them, equal difficulties w^d lie on the other side, since Congress in case of a confiscation of the supplies under the law which the omission of some formalities req^d by it w^d probably produce, would be obliged by honor & good faith to indemnify the Enemy for their loss out of the common treasury; that the other States w^d probably demand a reimbursement to the U. S. from P^a, & that it was impossible to say to what extremity the affair might be carried. They observed to the Com^e of the Leg^re and the Executive, that altho' Congress was disposed to make all allowances, and particularly in the case of a law passed for a purpose recomended by themselves, yet they c^d not condescend to any expedient which in any manner departed from the respect w^ch they owed to themselves & to the Articles of Union. The Com^e of Congress however suggested that as the only expedient w^ch w^d get rid of the clashing of the Power of Congress & the law of the State, w^d be the dissuading the Seizors from their appeal to the latter, it was probable that if the Seizors w^d apply to Congress for Redress such steps w^d be taken as w^d be satisfactory. The hint was embraced & both the Executive & the Com^e of the Leg^re promised to use their influence with the persons of most influence among the Seizors for that purpose. In consequence thereof a memorial from [1] [see Journal] was sent in

[1] John Hannum, Persifor Frazer, and Joseph Gardner.—*Journals of Congress*, iv., 151.

to Congress, comitted to the same Com^e of Congress, & their report of this day agreed to in w^ch the Presid^t of P^a is *requested* to app^t one of ye referees. It is proper to observe that this business was conducted with great temper & harmony, & that Presid^t Dickinson, in particul^r, manifested throughout the course of it as great a desire to save the rights & dignity of Congress as those of the State over which he presided. As a few of the Seizors only were parties to ye Memorial to Congress, it is still uncertain whe^r others may not adhere to their claims under the law in w^ch case all the embarrassments will be revived.

In a late report which had been drawn up by Mr. Hamilton, and made to Congress, in answ^r to a Memorial from the Legislature of P^a, among other things shewing the impossibility Congress had been under of pay^g their Creditors it was observed that the aid afforded by the C^t of France had been appropriated by that Court at the time to the immediate use of the army. This clause was objected to as unnecessary, & as dishonorable to Congress. The fact also was controverted. Mr. Hamilton & Mr. Fitzsimmons justified the expediency of retain^g it, in order to justify Congress the more completely in failing in their engagements to the public Creditors. Mr. Wilson & Mr. Madison proposed to strike out the words appropriated by France, & substitute the words applied by Congress to the immediate & necessary support of the army. This proposition w^d have been readily approved had it not appeared on examination that in one or two small instances, & particularly in the paym^t of the balance due to A. Lee, Esq^r, other applications had been made of the aid in question. The Report was finally recommitted.

A letter from the Super^t of Finance was received & read, acquainting Congress that as the danger from the Enemy which led him into the Dep^t, was disappearing & that he saw little prospect of provision being made without which injustice w^d take place of which he wo^d never be the Minister, he proposed not to serve longer than may next, unless proper provision s^d be made. This letter made a deep & solemn impression on Congress. It was considered as the effect of despondence in Mr. Morris of seeing justice done to the public Cred^rs, or the public finances placed on an honorable establish^t; as a source of fresh hopes to the enemy

when known ; as ruinous both to Domestic & foreign Credit ; & as producing a vacancy which none knew how to fill, & which no fit man w^d^ venture to accept. Mr. Ghoram, after observing that the Administration of Mr. Morris had inspired great confidence and expectation in his State, & expressing his extreme regret at the event, moved that the letter s^d^ be comitted. This was opposed as unnecessary & nugatory by Mr. Wilson, since the known firmness of Mr. Morris, after deliberately taking a step w^d^ render all attempts to dissuade him fruitless ; and that as the Memorial from the Army had brought the subject of funds before Congress, there was no other object for a Com^e^ The motion to commit was disag^d^ to. Mr. Wilson then moved that a day might be assigned for the consideration of the letter. Ag^st^ the propriety of this was observed, by Mr. Madison, that the same reasons which opposed a comitmt opposed y^e^ assignment of any day. Since Congress c^d^ not however anxious their wishes or alarming their apprehensions might be, condescend to solicit Mr. Morris, even if there were a chance of its being successful ; & since it w^d^ be equally improper for Congress however cogent a motive it might add in y^e^ mind of every member to struggle for substantial funds, to let such a consideration appear in their public acts on that subject. The motion of Mr. Wilson was not passed. Congress supposing that a knowledge of Mr. Morris's intentions w^d^ anticipate the ills likely to attend his actual resignation, ordered his letter to be kept secret.

Nothing being said to day as to the mode of insertion of the Treaty & Convention with the States General the Sec^y^ proceeded in retaining both Columns.[1]

In consequence of the report to the Grand Com^e^ on the memorial from the army, by the sub-com^e^, the following report was made by the former to Cong^s^, and came under consideration to-day.

* The Grand Com^e^ having considered the contents of the Mem^l^ presented by the army, find that they comprehend five different articles.

[1] See Madison's letter of Jan. 28, to Edmund Randolph, p. 33 n.

* Drawn by Col. Hamilton. [Note in MS.]

1. present pay.

2. A settlement of acc$^{ts}$ of the arrearages of pay and security for what is due.

3. A commutation of the half pay allowed by differ$^{t}$ resolutions of Congress for an equivalent in gross.

4. A settlem$^{t}$ of the acc$^{ts}$ of deficiencies of rations and compensation.

5. A settlement of accounts of deficiencies of cloathing & compensation.

The Com$^{e}$ are of opinion with resp$^{t}$ to the 1$^{st}$, that the Superintend$^{t}$ of finance be directed, conformably to measures already taken for that purpose, as soon as the State of the public finances will permit, to make such pay$^{t}$ & in such manner as he shall think proper till the further order of Congress.

With respect to the 2$^{d}$ Art., so far as relates to the settlement of acc$^{ts}$, that the several States be called upon to compleate the settlem$^{t}$, without delay, with their respective lines of the army up to the ——— day of Aug ; 1780 ; that the Sup$^{t}$ be also directed to take such measures as shall appear to him most proper & effectual for accomplishing the object in the most equitable & satisfactory manner, hav$^{g}$ regard to former resolutions of Cong$^{s}$, & to the settle$^{ts}$ made in consequence thereof.—And so far as relates to the providing of security for what shall be found due on such settlem$^{t}$ : Resolved that the troops of the United States in common with all the Credit$^{rs}$ of the same, have an undoubted right to expect such security—and that Congress will make every effort in their power to obtain from the respective States *general* & substantial funds adequate to the object of funding the whole debt of the U. S. ; and that Cong$^{s}$ ought to enter upon an immediate & full consideration of the nature of such funds & the most likely mode of obtaining them.

With respect to the 3$^{d}$ Article, the Comm$^{e}$ are of opinion that it will be expedient for Cong$^{s}$ to leave it to the option of all officers entitled to half pay, either to preserve their claim to that provision as it now stands by the several resolutions of Cong$^{s}$ upon that subject or to accept——years full pay to be paid to them in one year after the conclusion of the war in money or placed upon good funded security bearing an annual interest of 6 P$^{r}$ C$^{t}$, provided

that the allowance to widows & orphans of such officers as have died or been killed or may die or be killed in the service during the war shall remain as established by the resolution of the —— day of ———.

With respect to the 4 & 5 Arts, the Com^e^ beg leave to delay their report untill they have obtained more precise information than they now possess on the subject.

The 1^st^ Clause of this report relative to immediate pay passed without opposition. The Sup^t^ had agreed to make out 1 Month's pay. Indeed, long before the arrival of the deputies from the army he had made contingent & secret provision for that purpose; and to ensure it now he meant if necessary to draw bills on the late application for loans. The words "conformably to measures already taken," referred to the above secret provision and were meant to shew that the payment to the army did not originate in the Memo^l^, but in an antecedent attention to the wants of the army.

In the discussion of the 2^d^ clause, the epoch of Aug · 1780 was objected to by the Eastern delegates. Their States hav^g^ settled with their lines down to later periods, they wished now to obtain the sanction of Congress to them. After some debate, a compromise was proposed by Mr. Hamilton by substituting the last day of Dec^r^ 1780. This was agreed to without opposition altho' several members disliked it. The latter part of the clause beginning with the word Resolved, &c. was considered as a very solemn point, and the basis of the plans by which the public engagements were to be fulfilled & the Union cemented. A motion was made by Mr. Bland to insert after the words "in their power," the words "consistent with the Articles of Confederation." This amendment as he explained it was not intended to contravene the idea of funds extraneous to y^e^ federal articles, but to leave those funds for a consideration subsequent to providing constitutional ones. Mr. Arnold however eagerly 2^ded^ it. No question however was taken on it, Congress deeming it proper to postpone the matter till the next day, as of the most solemn nature; and to have as full a representation as possible. With this view & to get rid of Mr. Bland's motion they adjourned, & ordering all the members not present & in town to be summoned.

SATURDAY, JAN$^{Y}$ 25

The Sec$^{y}$ of Congress hav$^{g}$ suggested to a member that the Contract with the C$^{t}$ of France specifying sums Due from the U. S., altho' extremely generous on the part of the former had been ratified without any such acknowledgm$^{ts}$ by the latter, that this was the first instance in which such acknowledgm$^{ts}$ had been omitted, & that the omission w$^{d}$ be singularly improper at a time when we were Soliciting further aids; the[se] observations being made to Congress, the ratification [was] reconsidered, and the words "impressed with," &c., inserted.

The rep$^{t}$ on the memorial was resumed. By Mr. Hamilton Mr. Fitzsimmons & one or two others who had conversed with Mr. Morris on the change of the last day of Dec$^{r}$ for the ——— day of Aug$^{st}$, it was suggested that the change entirely contravened the measures pursued by his Department; and moved for a reconsideration of it in order to inquire into the subject. Without going into Details they urged this a reason sufficient. The Eastern Delegates, altho' they wished for unanimity & system in future proceedings relative to our funds & finances were very stiff in retaining the vote w$^{ch}$ coincided with the steps taken by their Constituents, of this much complaint was made. Mr. Rutledge on this occasion, alledging that Congress ought not to be led by general suggestions derived from the office of finance, joined by Mr. Gervais, voted ag$^{st}$ the reconsideration. The consequence was, y$^{t}$ S. Carol$^{a}$ was divided, & six votes only in fav$^{r}$ of the Reconsideration. Mr. Hamilton hav$^{g}$ expressed his regret at the negative & explained more exactly the interference of the change of the Epoch with the measures & plans of the Office of Finance, w$^{ch}$ had limited all State advances & settlem$^{ts}$ to Aug: 1780, Mr. Rutledge acknowledged the sufficiency of the reasons & at his instance the latter date was reinstated. On this 2$^{d}$ question Con$^{t}$ also voted for Aug$^{st}$.[1]

[1] The ——— day of August being reinstated before a question on the whole paragraph was taken, Mr. Ghoram objected to the word "general" before funds as ambiguous, and it was struck out; not however as improper if referring to all the States, & not to all objects of taxation. Without this word the clause passed unanimously, even Rhode Island concurring in it. [Note in MS.]

Congress proceeded to the 3rd Clause relative to the commutation of half pay. A motion was made by Mr. Hamilton, to fill the blank with "six" this was in conformity to tables of Dr. Price, estimating the officers on the average of good lives. Liberality in the rate was urged by several as necessary to give satisfaction & prevent a refusal of the offer. For this motion there were 6 ayes 5 noes; the Southern States & New York being in the affirmative the Eastern & N. J. in the negative. Col. Bland proposed 6½ erroneously supposing the negative of 6 to have proceeded from its being too low. It was on the contrary rather doubtful whether the East States wd concur in any arrangemt on this head; so averse were they to what they call pensions. Several having calculated that the annual amount of half-pay was between 4 & 500,000 Drs and the interest of the gross sum funded at the rate of 6 years, nearly ⅔ of that sum, Congress were struck with the necessity of proceeding with more caution & for that purpose committed the report to a Committee of 5—Mr. Osgood, Mr. Fitzsimmons, Mr. Gervais, Mr. Hamilton, and Mr. Wilson.[1]

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MONDAY, 27 JANY 1783.

A letter from Genl Washington was recd notifying the death of Lord Stirling & inclosing a report of the Officer sent to apprehend Knowlton and Wells.

The following is an extract from the report: "He (one Israel Smith) further sd that Knowlton & Wells had recd a letter from Jonathan Arnold, Esqr at Congress part of which was made public, which informed them that affairs in Congress were unfavorable to them & wd have them to look out for themselves. What other information this letter contained he cd not say. I found in my March thro' the State that the last mentioned Gentleman was much in favor with all the principal men in that State I had any conversation with."

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[1] On the motion of Mr. Wilson Monday next was assigned for the consideration of the Resolu [tion] on the 2d clause of the Report on the Memorial from the army. He observed that this was necessary to prevent the resol[ution] from being like many others,—*vox et preterea nihil.* [Note in MS.]

Mr. Arnold being present at the reading informed Congress that he was surprised how such a notion should have prevailed with respect to him ; that he had never held any correspondence with either Knowlton or Wells, and requested that he might be furnished with y.^e^ extract above. In this he was indulged without opposition. But it was generally considered notwithstanding his denial of the correspondence, that he had at least at second hand, conveyed y^e^ intelligence to Vermont.

A long petition was read, signed as alledged by near two thousand inhabitants (but all in the same handwriting) of the territory lately in controversy between P^a^ & V^a^, complaining of the grievances to which their distance from public authority exposed them & particularly of a late law of Pen^a^ interdicting even consultations about a new State within its limits ; and praying that Congress w^d^ give a sanction to their independence & admit them into the Union. The Petition lay on the table without a single motion or remark relative to it.

The order of the day was called for, to wit the Resolution of saturday last in favor of adequate & substantial funds.

The subject was introduced by Mr. Wilson with some judicious remarks on its importance & the necessity of a thorough & serious discussion of it. He observed that the U. States had in the course of the revolution displayed both an unexampled activity in resisting the enemy, and an unexampled patience under the losses & calamities occasioned by the war. In one point only he said they had appeared to be deficient & that was a cheerful payment of taxes. In other free Gov^ts^ it had been seen that taxation had been carried further & more patiently borne than in States where the people were excluded from the Gov^ts^. The people considering themselves as the sovereign as well as the subject ; & as receiving with one hand what they paid with the other. The peculiar repugnance of the people of the U. S. to taxes he supposed proceeded first from the odious light in which they have been under the old Gov^t^, in the habit of regarding them ; 2^dly^, from the direct manner in w^ch^ taxes in this country had been laid ; whereas in all other countries taxes were paid in a way that was little felt at the time. That it could not proceed altogether from inability he said must be obvious : Nay that the

ability of the U. S. was equal to the public burden might be demonstrated. According to calculations of the best writers the inhabitants of G. B. paid before the present war at the annual rate of at least 25*s* Sterl^g^ per head. According to like calculations the inhabitants of the U. S. before the revolution paid indirectly & insensibly at the rate of at least 10*s* Sterl^g^ per head. According to the computed depreciation of the paper emissions, the burden insensibly borne by the inhabitants of the U. S. had amounted during the first three or four years of the war to not less than twenty Millions of dollars per annum, a burden too which was the more oppressive as it fell very unequally on the people. An inability therefore could not be urged as a plea for the extreme deficiency of the revenue contributed by the States, which did not amount during the past year, to ½ a Million of dollars, that is to ⅙ of a dollar per head. Some more effectual mode of drawing forth the resources of the Country was necessary. That in particular it was necessary that such funds should be established as would enable Congress to fulfill those engagements which they had been enabled to enter into. It was essential he contended that those to whom was delegated the power of making war & peace should in some way or other have the means of effectuating these objects ; that as Congress had been under the necessity of contracting a large debt justice required that such funds should be placed in their hands as would discharge it ; that such funds were also necessary for carrying on the war ; and as Congress found themselves in their present situation destitute both of the faculty of paying debts already contracted, and of providing for future exigencies, it was their duty to lay that situation before their constitutents ; and at least to come to an *éclaircissement* on the subject,[1] he remarked that the establish^t^ of certain

[1] The precarious condition of affairs prompted Madison at this time to make the suggestion of starting a newspaper in Virginia to influence public opinion. The project was not a new one, however, for Jaqueline Ambler wrote to him from Richmond, December 29, 1781 :

" Oh Sir we want some Publications that will rouse our citizens. I sincerely wish you could spare an hour now and then to this salutary Work. I will take care, if you will transmit the pieces to me, that they shall be safely lodged with the printer, and none made acquainted with the writer but those you may

funds for pay$^{g}$ w$^{d}$ set afloat the public paper; adding that a public debt resting on general funds would operate as a cement to the confederacy, and might contribute to prolong its existence, after the foreign danger ceased to counteract its tendency to dissolution. He concluded with moving that it be Resol$^{d}$.

"That it is the opinion of Congress that complete justice cannot be done to the Creditors of the United States, nor the restoration of public credit be effected, nor the future exigencies of the war provided for, but by the establishment of *general* funds to be collected by Congress."

This motion was seconded by Mr. Fitzsimmons. Mr. Bland desired that Congress w$^{d}$ before the discussion proceeded farther receive a communication of sundry papers transmitted to the Virg$^{a}$

direct.—believe me they will render us most essential good and especially on the approach of a new election."

Madison wrote Edmund Randolph,—January 28, 1783:

"The revival of committees would be a ticklish experiment, and I conceive not admissible but in the last necessity. Would not the circulation of a free & well-informed gazette sufficiently counteract the malignant rumours w$^{ch}$ require some antidote? The preparation & circulation of such a paper w$^{d}$ be a much more easy & economical task, than the services which the other expedient would impose if extended throughout the country, besides that it would produce other useful effects & be liable to no objections. The state of darkness in which the people are left in V$^{a}$ by the want of a diffusion of intelligence is I find a subject of complaint.

"Yesterday was imployed in agitating the expediency of a proposition declaring it to be the 'opinion of Congress that the establishment of *Gen$^{l}$* funds is essential for doing complete justice to the creditors of the U. S. for restoring public credit, & for providing for the exigencies of the war.' The subject was brought on by the memorial from the army. Such of the Virg$^{a}$ Delegates as concur in this opinion are put in a delicate situation by the preamble to the late repeal of the impost. Persuaded as I am however of the truth of the proposition, & believing as I do that with the same knowledge of facts which my station commands, my constituents would never have passed that act, and would now rescind it, my assent will be hazarded. For many reasons which I have not time to explain in cipher it is my decided opinion that unless such funds be established, the foundations of our Independence will be laid in injustice & dishonor, and that the advantages of the Revolution dependent on the fœderal compact will be of short duration.

"We yesterday laid before Congress sundry papers transmitted by the Gov$^{r}$ The light in which the protest of inability to pay the annual registration,

Delegates by the Executive of that State ; two of which had relation to the question before Congress. These were 1st, a Resolution of the Genl Assembly declaring its inability to pay more than £50.000 Va currency towards complying with the demands of Congress. 2dly the Act repealing the Act granting the impost of 5 Per Ct These papers were received and read.

Mr. Wolcot expressed some astonishment at the inconsistency of these two acts of Va ; supposed that they had an unfavorable aspect on the business before Congress ; & proposed that the latter sd be postponed for the present. He was not seconded.

Mr. Ghoram favored the general idea of the motion, animadverting on the refusal of Virga to contribute the necessary sums &

compared with the repeal of the impost law placed Virga did not you may be sure escape observation.

"Penna continues to be visited by the consequences of her patronage of Vermont. A Petition from the inhabitants of territory lately in dispute between her & Virga was yesterday read in Congs complaining among other grievences of the interdict agst even consultations on the subject of a new state within the limits of the former ; and praying for the sanction of Congress to their independence, & for an admission into the Union.

. . . . . .

"The only despatches recd since my last from abroad are those from Mr Adams containing copies of the Treaty of amity & commerce with the U. Provinces & a convention relative to recaptures. They are engrossed in two columns one Dutch & the other American, the former signed by the Dutch Plenipos & the latter by Mr Adams. The language of the American column is obscure abounding in foreign idioms & new coined words, with bad grammar & mispellings. They have been ratified & will as soon as possible be proclaimed. It became a question in Congress on which intelligent members were divided whether both columns or the American only ought to be inserted in the act of ratification. The former mode will be pursued. If yr Library or your recollection can decide the point, favor me with the information."—*Mad. MSS.*

The preamble to the Virginia act of repeal of the impost announced opposition to the power of congress to collect any general revenue.

It recited—"Whereas, the permitting any power, other than the General Assembly of this Commonwealth, to levy duties or taxes upon the citizens of this State within the same, is injurious to its sovereignty, may prove destructive of the rights and liberties of the people, and, so far as Congress might exercise the same, is contravening the spirit of the confederation in the eighth article thereof : II Be it therefore," etc.—*Hennings Stat.*, xi., 171.

at the same moment repealing her conCurrence in the only scheme that promised to supply a deficiency of contributions. He thought the motion however inaccurately expressed, since the word "general" might be understood to refer to every possible object of taxation as well as to the operation of a particular tax through [out] the States. He observed that the non-payment of the 1.200.000 D$^{rs}$ demanded by Congress for paying the interest of the debts for the year——demonstrated that the constitutional mode of annual requisitions was defective; he intimated that lands were already sufficiently taxed [&] that polls & commerce were the most proper objects. At his instance the latter part of the motion was so amended as to run "establishment of permanent & adequate funds to operate generally throughout the U. States."

Mr. Hamilton went extensively into the subject; the sum of it was as follows he observed that funds considered as permanent sources of revenue were of two kinds 1$^{st}$ Such as would extend generally & uniformly throughout the U. S., & w$^{d}$ be collected under the authority of Cong$^{s}$ 2$^{dly}$, such as might be established separately within each State, & might consist of any objects which were chosen by the States, and might be collected either under the authority of the States or of Cong$^{s}$ Funds of the 1$^{st}$ kind he contended were preferable; as being 1$^{st}$, more simple, the difficulties attending the mode of fixing the quotas laid down in the Confederation rendering it extremely complicated & in a manner insuperable; 2$^{dly}$, as being more certain: since the States according to the sec$^{d}$ plan w$^{d}$ probably retain the collection of the revenue, and a vicious system of collection prevailed generally throughout the U. S. a system by which the collectors were chosen by the people & made their offices more subservient to their popularity than to the public revenue; 3$^{d}$, as being more economical Since the collection would be effected with fewer officers under the management of Congress than under that of the States.

Mr. Ghoram observed that Mr. Hamilton was mistaken in the representation he had given of the collection of taxes in several of the States; particularly in that of Massachusetts; where the collection was on a footing which rendered it sufficiently certain. Mr. Wilson having risen to explain some things which had fallen from him; threw out the suggestion that several branches of the

Revenue if yielded by all the States, would perhaps be more just & satisfactory than any single one; for example An impost on trade combined with a land tax.

Mr. Dyer expressed a strong dislike to a Collection by officers appointed under Congress & supposed the States would never be brought to consent to it.

Mr. Ramsay was decidedly in favor of the proposition. Justice he said entitled those who had lent their money & services to the U. S. to look to them for payment; that if general & certain revenues were not provided, the consequence w^d^ be that the army & public Creditors would have soon to look to their respective States only for satisfaction; that the burden in this case w^d^ fall unequally on the States; that rivalships relative to trade w^d^ impede a regular impost & would produce confusion am^g^ the States; that some of the States would never make of themselves provision for half pay and that the army w^d^ be so far defrauded of the rewards stipulated to them by Congress; that altho it might be uncertain whether the States w^d^ accede to plans founded on y^e^ proposition before the house, yet as Congress was convinced of its truth & importance it was their duty to make the experiment.

Mr. Bland thought that the ideas of the States on the subject were so averse to a general revenue in the hands of Cong^s^ that if such a revenue were proper it was unattainable; that as the deficiency of the contributions from the States proceeded, not from their complaints of their inability [1] but of the inequality of the apportionments, it would be a wiser course to pursue the rule of the Confederation, to-wit to ground the requisition on an actual valuation of lands; that Congress w^d^ then stand on firm ground & try a practicable mode.

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TUESDAY, JAN^Y^ 28TH, 1783

The subject yesterday under discussion was resumed. A division of the question was called for by Mr. Wolcott so as to leave a distinct question on the words "to be collected by Congress," w^ch^ he did not like.

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[1] The paper just read from Virg^a^ complained of her inability without mentioning an inequality. This was deemed a strange assertion. [Note in MS.]

Mr. Wilson considered this mode of collection as essential to the idea of a general revenue. Since without it the proceeds of the revenue w^d depend entirely on the punctuality energy & unanimity of the States, the want of which led to the present consideration.

Mr. Hamilton was strenuously of the same opinion. Mr. Fitzsimmons informed Congress that the Legislature of Penn^a had, at their last meeting been dissuaded from appropriating their revenue to the payment of their own Citizens Creditors of the U. S., instead of remitting it to y^e Continental treasury; merely by the urgent representations of a Committee of Congress & by the hope that some general system in fav^r of all the public creditors would be adopted; that the Legislature were now again assembled; and altho sensible of the tendency of such an example, thought it their duty & meant in case the prospect of such a system vanished to proceed immediately to the separate appropriations formerly in contemplation.

On the motion of Mr. Madison, the whole proposition was new-modelled, as follows:

"That it is the opinion of Congress that the establishment of permanent & adequate funds to operate generally throughout the U. States is indispensably necessary for doing complete justice to the Creditors of the U. S., for restoring public credit and for providing for the future exigencies of the war." The words "to be collected under the authority of Congress" were as a separate question left to be added afterwards.

Mr. Rutledge objected to the term "generally" as implying a degree of uniformity in the tax which would render it unequal. He had in view particularly a land tax according to quañty as had been proposed by the office of finance. He thought the prejudices of the people opposed the idea of a general tax; & seemed on the whole to be disinclined to it himself, at least if extended beyond an impost on trade; urging the necessity of pursuing a valuation of land, and requisitions grounded thereon. Mr. Lee 2^ded the opposition to the term "general," he contended that the States w^d never consent to a uniform tax because it w^d be unequal; that it was moreover repugnant to the articles of confederation; and by placing the purse in the same hands with the

sword, was subversive of the fundamental principles of liberty. He mentioned the repeal of the impost by Virg[a], himself alone opposing it & that too on the inexpediency in point of time — as proof of the aversion to a general revenue. He reasoned upon the subject finally as if it was proposed that Congress s[d] assume & exercise a power immediately & without the sanction of the States, of levying money on them in consequence.

Mr. Wilson rose & explained the import of the motion to be that Congress should recommend to the States the investing them with power. He observed that the Confederation was so far from precluding, that it expressly provided for future alterations; that the power given to Congress by that Act was too little not too formidable, that there was more of a centrifugal than centripetal force in y[e] States & that y[e] funding of a common debt in the manner proposed would produce a salutary invigoration and cement to the Union.

Mr. Elseworth acknowledged himself to be undecided in his opinion; that on one side he felt the necessity of continental funds for making good the continental engagements, but on the other desponded of a unanimous concurrence of the States in such an establishment. He observed that it was a question of great importance, how far the federal Gov[t] can or ought to exert coercion against delinquent members of the confederacy; & that without such coercion no certainty could attend the constitutional mode which referred every thing to the unanimous punctuality of thirteen different councils. Considering therefore a continental revenue as unattainable, and periodical requisitions from Congress as inadequate, he was inclined to make trial of the middle mode of permanent State funds, to be provided at the recommendation of Cong[s], and appropriated to the discharge of the common debt.

Mr. Hamilton, in reply to Mr. Elseworth, dwelt long on the inefficacy of State funds. He supposed too that greater obstacles would arise to the execution of the plan than to that of a general revenue. As an additional reason for the latter to be collected by officers under the appointment of Congress, he signified that as the energy of the federal Gov[t] was evidently short of the degree necessary for pervading & uniting the States it was expedient to

introduce the influence of officers deriving their emoluments from & consequently interested in supporting the power of, Congress.[1]

Mr. Williamson was of opinion that continental funds altho' desirable, were unattainable at least to the full amount of the public exigencies. He thought if they could be obtained for the fereign debt, it would be as much as could be expected, and that they would also be less essential for the domestic debt.

Mr. Madison observed that it was needless to go into proofs of the necessity of pay$^{g}$ the public debts; that the idea of erecting our national independence on the ruins of public faith and national honor must be horrid to every mind which retained either honesty or pride; that the motion before Congress contained a simple proposition with respect to the truth of which every member was called upon to give his opinion. That this opinion must necessarily be in the affirmative, unless the several objects: of doing justice to the public creditors, &c &c. could be compassed by some other plan than the one proposed, that the 2 last objects depended essentially on the first; since the doing justice to the Creditors alone w$^{d}$ restore public credit, & the restoration of this alone could provide for y$^{e}$ future exigencies of the war. Is then a continental revenue indispensably necessary for doing complete justice &c? This is the question. To answer it the other plans proposed must first be reviewed.

In order to do complete justice to the public creditors, either the principal must be paid off, or the interest paid punctually. The 1$^{st}$ is admitted to be impossible on any plan. The only plans opposed to the contin$^{l}$ one for the latter purpose are 1. periodical requisitions according to the federal articles; 2$^{dly}$ permanent funds established by each State within itself & the proceeds consigned to the discharge of public debts.

Will y$^{e}$ 1$^{st}$ be adequate to the object? The contrary seems to

[1] This remark was imprudent & injurious to the cause w$^{ch}$ it was meant to serve. This influence was the very source of jealousy which rendered the States averse to a revenue under collection as well as appropriation of Congress. All the members of Congress who concurred, in any degree with the States in this jealousy smiled at the disclosure. Mr. B[land] & still more Mr. L[ee], who were of this number took notice in private conversation, that Mr. Hamilton had let out the secret. [Note in MS.]

be maintained by no one. If reason did not sufficiently premonish experience has sufficiently demonstrated that a punctual & unfailing compliance by 13 separate & independent Gov^ts^ with periodical demands of money from Congress, can never be reckoned upon with the certainty requisite to Satisfy our present creditors, or to tempt others to become our creditors in future.

2^dly^ Will funds separately established within each State & the amount submitted to the appropriation of Congress be adequate to the object? The only advantage which is thought to recommend this plan is that the States will be with less difficulty prevailed upon to adopt it. Its imperfections are 1^st^ that it must be preceded by a final and satisfactory adjustment of all acc^ts^ between the U. S. and individual States; and by an apportionment founded on a valuation of all the lands throughout each of the States in pursuance of the law of the confederation; for although the States do not as yet insist on these pre-requisites in y^e^ case of annual demands on them, with w^ch^ they very little comply & that only in the way of an open acc^t^, yet these conditions w^d^ certainly be exacted in case of a permanent cession of revenue; and the difficulties & delays to say the least incident to these conditions can escape no one. 2^dly^ the produce of the funds being always in the first instance in the hands & under the control of the States separately, might at any time & on various pretences, be diverted to State objects. 3^dly^, that jealousy which is as natural to the States as to individuals & of which so many proofs have appeared, that *others* will not fulfil their respective portions of the common obligations, will be continually & mutually suspending remittances to the common treasury, until it finally stops them altogether. These imperfections are too radical to be admitted into any plan intended for the purposes in question.

It remains to examine the merits of a plan of a general revenue operating throughout y^e^ U. S. under the superintendence of Congress.

One obvious advantage is suggested by the last objection to separate revenues in the different States; that is, it will exclude all jealousy among them on that head, since each will know whilst it is submitting to the tax, that all the others are necessarily at the same instant bearing their respective portions of the burden.

Again, it will take from the States the opportunity as well as the temptation to divert their incomes from the general to internal purposes since these incomes will pass *directly* into the treasury of the U. S.

Another advantage attending a general revenue is that in case of the concurrence of the States in establishing it, it would become soonest productive; and would consequently soonest obtain the objects in view. Nay so assured a prospect would give instantaneous confidence and content to the public creditors at home & abroad, and place our affairs in a most happy train.

The consequences with respect to the Union, of omitting such a provision for the debts of the Union also claims particular attention. The tenor of the memorial from Penn$^{a}$, and of the information just given on the floor by one of its Delegates, (Mr. Fitzsimmons,) renders it extremely probable that that State would as soon as it s$^{d}$ be known that Congress had declined such provision or the States rejected it, appropriate the revenue required by Congress to the payment of its own Citizens & troops, creditors of the U. S. The irregular conduct of other States on this subject enforced by such an example could not fail to spread the evil throughout the whole continent. What then w$^{d}$ become of the confederation? What w$^{d}$ be the authority of Congress? w$^{t}$ the tie by which the States c$^{d}$ be held together? what the source by which the army could be subsisted & clothed? What the mode of dividing & discharging our foreign debts? What the rule of settling the internal acc$^{ts}$? What the tribunal by which controversies am$^{g}$ the States could be adjudicated?

It ought to be carefully remembered that this subject was brought before Congress by a very solemn appeal from the army to the justice & gratitude of their Country. Besides immediate pay, they ask for permanent Security for arrears. Is not this request a reasonable one? Will it be just or politic to pass over the only adequate security that can be devised, & instead of fulfilling the stipulations of the U. S. to them, to leave them to seek their rewards separately from the States to which they respectively belong? The patience of the army has been equal to their bravery, but that patience must have its limits; and the result of despair cannot be foreseen, nor ought to be risked.

It has been objected ag$^{st}$ a general revenue that it contravenes the articles of confederation. These Articles as has been observed have presupposed the necessity of alterations in the federal system, & have left a door open for them. They moreover authorize Congress to borrow money. Now in order to borrow money permanent & certain provision is necessary, & if this provision cannot be made in any other way as has been shewn, a general revenue is within the spirit of the Confederation.

It has been objected that such a revenue is subversive of the sovereignty & liberty of the States. If it were to be assumed without the free gift of the States this objection might be of force, but no assumption is proposed. In fact Congress are already invested by the States with the constitutional authority over the purse as well as the sword. A general revenue would only give this authority a more certain & equal efficacy. They have a right to fix the *quantum* of money necessary for the common purposes. The right of the States is limited to the *mode* of supply. A requisition of Congress on the States for money is as much a law to them; as their revenue Acts when passed are laws to their respective Citizens. If for want of the faculty or means of enforcing a requisition, the law of Congress proves inefficient; does it not follow that in order to fulfil the views of the federal constitution, such a change s$^{d}$ be made as will render it efficient? Without such efficiency the end of this Constitution, which is to preserve order & justice among the members of the Union, must fail; as without a like efficiency would the end of State Constitutions w$^{ch}$ is to preserve like order & justice among their respective members.

It has been objected that the States have manifested such aversion to the impost on trade as renders any recommendations of a general revenue hopeless & imprudent. It must be admitted that the conduct of the States on that subject is less encouraging than were to be wished. A review of it however does not excite despondence. The impost was adopted immediately & in its utmost latitude by several of the States. Several also which complied partially with it at first, have since complied more liberally. One of them after long refusal has complied substantially. Two States only have failed altogether & as to one of them it is not

known that its failure has proceeded from a decided opposition to it. On the whole it appears that the necessity & reasonableness of the scheme have been gaining ground among the States. He was aware that one exception ought to be made to this inference; an exception too w^ch^ it peculiarly concerned him to advert to. The State of Virg^a^, as appears by an Act yesterday laid before Congress has withdrawn its assent once given to the scheme. This circumstance c^d^ not but produce some embarrassment in a representative of that State advocating the Scheme, one too whose principles were extremely unfavorable to a disreg^d^ of the sense of Constituents. But it ought not to deter him from listening to considerations which in the present case ought to prevail over it. One of these considerations was that altho' the delegates who compose Congress, more immediately represented & were amenable to the States from which they respectively come, yet in another view they owed a fidelity to the collective interests of the whole. 2^dly^, Although not only the express instructions, but even the declared sense of constituents as in the present case, were to be a law in general to their representatives, still there were occasions on which the latter ought to hazard personal consequences from a respect to what his clear conviction determines to be the true interest of the former; and the present he conceived to fall under this exception. Lastly the part he took on the present occasion was the more fully justified to his own mind, by his thorough persuasion that with the same knowledge of public affairs which his station commanded the Legislature of V^a^ would not have repealed the law in favor of the impost & would even now rescind the repeal.

The result of these observations was that it was the duty of Congress under whose authoṛy the public debts had been contracted to aim at a general revenue as the only means of discharging them; & that this dictate of justice & gratitude was enforced by a regard to the preservation of the confederacy, to our reputation abroad & to our internal tranquillity.

Mr. Rutledge complained that those who so strenuously urged the necessity & competency of a general revenue[1] operating

[1] He was apprehensive that a tax on land according to its quantity not value as had been recom^d^ by Mr. Morris, was in contemplation. [Note in MS.]

throughout all the States at the same time, declined specifying any general objects from which such a revenue could be drawn. He was thought to insinuate that these objects were kept back intentionally untill the general principle c^d^ be irrevocably fixed when Cong^s^ would be bound at all events to go on with the project ; whereupon Mr. Fitzsimmons expressed some concern at the turn w^ch^ the discussion seemed to be taking. He said, that unless mutual confidence prevailed no progress could be made towards the attainment of those ends w^ch^ all in some way or other aimed at. It was a mistake to suppose that any specific plan had been preconcerted among the patrons of a general revenue.

Mr. Wilson with whom the motion originated gave his assurances that it was neither the effect of preconcert with others, nor of any determinate plan matured by himself, that he had been led into it, by the declaration on Saturday last by Cong^s^ that substantial funds ought to be provided, by the memorial of the army from which that declaration had resulted by the memorial from the State of P^a^, holding out the idea of separate appropriations of her revenue unless provision were made for the public creditors, by the deplorable & dishonorable situation of public affairs which had compelled Congress to draw bills on the unpromised & contingent bounty of their Ally, and which was likely to banish the Superint^t^ of Finance whose place c^d^ not be Supplied, from his department. He observed that he had not introduced detail [s] into the debate because he thought them premature, until a general principle should be fixed ; and that as soon as the principle s^d^ be fixed he would altho not furnished with any digested plan, contribute all in his power to the forming such a one.

Mr. Rutledge moved that the proposition might be committed in order that some practicable plan might be reported, before Congress s^d^ declare that it ought to be adopted.

Mr. Izard 2^ded^ the motion, from a conciliatory view.

Mr. Madison thought the commitment unnecessary ; and would have the appearance of delay ; that too much delay had already taken place, that the deputation of the army had a right to expect an answer to their memorial as soon as it could be decided by Congress. He differed from Mr. Wilson in thinking that a

specification of the objects of a general revenue would be improper, and thought that those who doubted its practicabil$^{y}$ had a right to expect proof of it from details before they c$^{d}$ be expected to assent to the general principle; but he differed also from Mr. Rutledge, who thought a commitment necessary for the purpose; since his views would be answered by leaving the motion before the house and giving the debate a greater latitude. He suggested as practicable objects of a general revenue. 1$^{st}$ an impost on trade 2$^{dly}$ a poll tax under certain qualifications 3$^{dly}$ a land-tax under do.[1]

Mr. Hamilton suggested a house & window-tax he was in favor of the mode of conducting the business urged by Mr. Madison.

On the motion for the comm$^{t}$, 6 States were in favor of it, & 5 ag$^{st}$ it, so it was lost, in this vote the merits of the main proposition very little entered.

Mr. Lee said that it was a waste of time to be forming resolutions & settling principles on this subject. He asked whether these w$^{d}$ ever bring any money into the public treasury. His opinion was that Congress ought in order to guard ag$^{st}$ the inconvenience of meetings of the different Legislatures at different & even distant periods, to call upon the Executives to convoke them all at one period, & to lay before them a full state of our public affairs. He said the States would never agree to those plans which tended to aggrandize Congress; that they were jealous of the power of Congress, & that he acknowledged himself to be one of those who thought this jealousy not an unreasonable one; that no one who had ever opened a page or read a line on the subject of liberty, could be insensible to the danger of surrendering the purse into the same hands which held the sword.

The debate was suspended by an adjournment.

[1] A poll tax to be qualified by rating blacks somewhat lower than whites—a land-tax by considering the value of land in each State to be in an inverse proportion of its quantity to the n$^{o}$ of people; and apportioning on the aggregate quantity in each State accordingly, leaving the State at liberty to make a distributive apportionment on its several districts, on a like or any other equalizing principle. [Note in MS.]

WEDNESDAY, JAN.Y 29TH. 1783

Mr. Fitzsimmons reminded Congress of the numerous inaccuracies & errors in the American column of the Treaty with Holland and proposed that a revision of it as ratified should take place in order that some steps might be taken for redressing this evil, he added that an accurate comparison of it with the treaty with France ought also to be made for the purpose of seeing whether it consisted in all its parts with the latter.[1] He desired the Committe who had prepared the ratification to give some explanation on the subject to Congress.

Mr. Madison, as first on that Committee informed Congress, that the inaccuracies & errors consisting of mis-spelling, foreign idioms, & foreign words, obscurity of the sense &c were attended to by the Committee & verbally noted to Congress when their report was under consideration; that the Committee did not report in writing, as the task was disagreeable, and the faults were not conceived to be of sufficient weight to affect the ratification. He thought it w.d be improper to reconsider the act as had been suggested, for the purpose of suspending it on that or any other acc.t, but had no objection if Congress were disposed, to instruct Mr. Adams to substitute with the consent of the other party a more correct counterpart in the American language. The subject was dropped, nobody seeming inclined to urge it.

On the motion of Mr. Rutledge & for the purpose of extending the discussion to particular objects of General Revenue Congress resolved itself into a Committee of the whole to consider of the most effectual means of restoring public credit; and the proposition relative to general revenue was referred to the Committee. Mr. Carroll was elected into the chair, & the proposition taken up.[2]

[1] Mr. Hamilton told Mr. Madison privately that M. de Marbois speaking of the treaty asked him emphatically whether there were not some articles which required animadversion. Mr. H. did not at the time know what was alluded to. He now supposed the allusion to be to some article supposed to be inconsistent with the Treaty with France; particularly the article referring to the select articles of the latter instead of the whole; which art. Mr. Adams informed Congress had been satisfactory to the D. de Vauguyon. [Note in MS.]

[2] "The subject which my last left under the consideration of Congress has employed the chief part of the week. The generality of the members are

Mr. Bland proposed to alter the words of the proposition so as to make it read establish[t] of funds "on taxes or duties, to operate generally &c." This was agreed to as a more correct phraseology. Mr. Hamilton objected to it at first, supposing thro' mistake that it might exclude the back lands which was a fund in contemplation of some gentlemen.

Mr. Madison, having adverted to the jealousy of Mr. Rutledge of a latent scheme to fix a tax on land according to its quantity, moved that between the words "generally" & "to operate" might be inserted the words "and in just proportion."

Mr. Wilson said he had no objection to this amendm[t], but that it might be referred to the taxes individually, & unnecessarily fetter Congress; since if the taxes collectively should operate in just proportion, it w[d] be sufficient. He instanced a land-tax & an impost on trade, the former of which might press hardest on the South[n], & the latter on the East[n], but both together might

convinced of the necessity of a continental revenue for an honorable discharge of the continental engagements and for making future provision for the war. The extent of the plan however compared with the prepossessions of their constituents produces *despondence & timidity*. It appears that the *annual* revenue which prudence calls for for the objects above mentioned, amounts to the *enormous sum of three millions of dollars*. You will ask perhaps from what sources this revenue could be drawn if the States were willing to establish it? Congress have done nothing as yet from which the answer they w[d] dictate can be informed. By individuals on the floor, *the imposts, a land* [or] *poll tax, a tax on salt a* &c have been suggested, and some computation of their productiveness has made them competent to the object. The valuation of the land accord[g] to the Articles of confederation is also before Congress & by some considered as a great step towards obtaining the necessary revenue. If you ask by what operation? I shall be more incapable of answering it than the preceeding question.

"The repeal of the impost by Virg[a] is still *unriddled*. *Dr. Lee says* that *he was* the *only man who opposed* the *torrent* from which it is the more suspected that there has been *some manœvring in the transaction*. Mr. *Jones quotes* the instance of *your last election to Congress*.

"I find a great check to secret communications from the defects of your cypher. It in the first place is so scanty as to be extremely tedious and in the next both the letters & figures are in so ambiguous a character that great caution is necessary to avoid errors. I wish we could some how or other substitute a more convenient one."—Madison to Edmund Randolph, February 4, 1783. (Italics for cypher.) *Mad. MSS.*

distribute the burden pretty uniformly. From this consideration he moved that the words "on the whole" might be prefixed to the words "in just proportion." This amend$^{t}$ to the amendment of Mr. Madison was 2$^{ded}$ by Mr. Boudinot & agreed to without opposition as was afterwards the whole amendm$^{t}$.

Mr. Wilson in order to leave the scheme open for the back lands as a fund for paying the public debts, moved that the proposition might be further altered so as to read "indispensably necessary *towards* doing complete justice &c."—The motion was 2$^{ded}$ by Mr. Boudinot, & passed without opposition.

The main proposition by Mr. Wilson as thus amended then passed without opposition; in the words following: "That it is the opinion of Congress that the establishment of permanent & adequate funds on taxes or duties which shall operate generally & on the whole in just proportion throughout the U. S., are indispensably necessary towards doing complete justice to the public Creditors, for restoring public Credit, & for providing for the future exigencies of the War."

Mr. Bland proposed as the only expedient that c$^{d}$ produce immediate relief to the public Creditors, that, Congress s$^{d}$ by a fixed resolution appropriate to the payment of interest *all* the monies which should arise from the requisitions on the States. He thought this would not only give immediate relief to the public Creditors, but by throwing into circulation the stagnant securities, enliven the whole business of taxation. This proposition was not 2$^{ded}$

Mr. Wilson proceeded to detail to Congress his ideas on the subject of a continental revenue. He stated the internal debt liquidated & unliquidated at 21 Million of Doll$^{rs}$ the foreign debt at 8 Million, the actual deficiency of 1782 at 4 Million, the probable deficiency of '83 at 4 Million. Making, in the whole 37 Million; which in round numbers & probably without exceeding the reality may be called 40 Million. The interest of this debt at 6 Per Ct., is 2,400,000 D$^{rs}$, to which it will be prudent to add 600,000, which if the war continues will be needed, and in case of peace may be applied to a navy. An annual revenue of 3 Million of D$^{rs}$ then is the sum to be aimed at, and which ought to be under the management of Cong$^{s}$ One of the objects already

mentioned from w^ch^ this revenue was to be sought, was a poll tax. This he thought was a very proper one, but unfortunately the Constitution of Maryland which forbids this tax is an insuperable obstacle. Salt he thought a fit article to be taxed, as it is consumed in a small degree by all and in great quantities by none. It had been found so convenient a subject of taxation, that among all nations which have a system of revenue, it is made a material branch. In England a considerable sum is raised from it. In France it is swelled to the sum of 54,000,000 of Livres. He thought it would be improper to levy this tax during the war whilst the price w^d^ continue so high, but the necessary fall of price at the conclusion of it w^d^ render the tax less sensible to the people. The suspension of this particular tax during the war would not be inconvenient as it might be set apart for the debt due to France on which the interest would not be called for during the war. He computed the quantity of salt imported into the U. S. annually at 3 Million of Bushels, & proposed a duty of ⅓ of a Dollar per bushel which w^d^ yield 100,000 D^rs^ This duty he observed w^d^ press hardest on the Eastern States, on acc^t^ of the extraordinary consumption in the fisheries.

The next tax which he suggested was on land. 1 Dollar on every 100 Acres according to the computation of the Superintend^t^ of finance would produce 500,000 Doll^rs^ This computation he was persuaded might be doubled. Since there could not be less than 100 Millions of Acres comprehended within the titles of individuals which at 1 D^r^ per 100 Acres yields 1,000,000 of Dollars. This tax could not be deemed too high, & would bear heaviest not on the industrious farmer, but on the great land-holder. As the tax on Salt would fall with most weight on the Eastern States, the equilibrium would be restored by this which would be most felt by the Middle and Southern States.

The impost on trade was another source of revenue which altho' it might be proper to vary it somewhat in order to remove particular objections, ought to be again & again urged upon the States by Congress. The office of Finance has rated this at 500,000 Dollars. He thought a peace would double it in which case the sum of 3,000,000 D^rs^ would be made up. If these computations however should be found to be too high there will still be other

objects which would bear taxation. An Excise he said had been mentioned. In general this species of taxation was tyrannical & justly obnoxious, but in certain forms had been found consistent with the policy of y^e^ freest States. In Massachusetts a State remarkably jealous of its liberty, an Excise was not only admitted before but continued since the revolution. The same was the case with Penn^a^, also remarkable for its freedom. An Excise if so modified as not to offend the spirit of liberty may be considered as an object of easy & equal revenue. Wine & imported spirits had borne a heavy Excise in other Countries, and might be adopted in ours. Coffee is another object which might be included. The amount of these three objects is uncertain but materials for a satisfactory computation might be procured. These hints & remarks he acknowledged to be extremely imperfect & that he had been led to make them solely by a desire to contribute his mite towards such a system as would place the finances of the U. S. on an honorable and prosperous footing.

Mr. Ghoram observed that the proposition of Mr. Bland, however salutary its tendency might be in the respects suggested, could never be admitted because it would leave our army to starve, and all our affairs to stagnate during its immediate operation. He objected to a duty on salt as not only bearing too heavily on the East^n^ States, but as giving a dangerous advantage to Rivals in the fisheries. Salt he s^d^ exported from England for the fisheries is exempted particularly from duties. He thought it would be best to confine our attention for the present to the impost on trade which had been carried so far towards an accomplishment, and to remove the objections which had retarded it, by limiting the term of its continuance, leaving to the States the nomination of the collectors, and by making the appropriation of it more specific.

Mr. Rutledge was also for confining our attention to the Impost, & to get that before any further attempts were made. In order to succeed in getting it however he thought it ought to be asked in a new form. Few of the States had complied [with] the recommendation of Cong^s^, literally. Georgia had [not] yet complied. Rhode Island had absolutely refused to comply at all. Virg^a^, which at first complied but partially has since

rescinded even that partial compliance. After enumerating the several objections urged by the States ag$^{st}$ the scheme, he proposed in order to remove them the following resolution ; viz :

" that it be earnestly recommended to the several States to impose & levy a duty of 5 Per C$^{t}$ ad valorem, at the time & place of importation, on all goods, wares & merchandizes of foreign growth & manufacture w$^{ch}$ may be imported into the said States respectively, except goods of the U. S. or any of them, and a like duty on all prizes & prize goods condemned in the Court of admiralty of said States ; that the money arising from such duties be paid into the continental Treasury, to be appropriated & applied to the payment of the interest and to sink the principal of the money which the U. S. have borrowed in Europe & of what they may borrow, for discharging the arrears due to the army & for the future support of the war & to no other use or purpose whatsoever ; that the said duties be continued for 25 years unless the debts above m$^{d}$ be discharged in the mean time, in which case they shall cease & determine ; that the money arising from the said duties & paid by any State, be passed to the credit of such State on account of its quota of the debt of the U. States." The motion was seconded by Mr. Lee.

Mr. Woolcot opposed the motion as unjust towards those States which having few or no ports receive their merchandize through the ports of others ; repeating the observation that it is the consumer & not the importer who pays the duty. He again animadverted on the conduct of Virg$^{a}$ in first giving & afterwards withdrawing her assent to the Impost recommended by Congress.

Mr. Elseworth thought it wrong to couple any other objects with the Impost ; that the States would give this if any thing ; and that if a land tax or an excise were combined with it, the whole scheme would fail. He thought however that some modification of the plan recommended by Cong$^{s}$ would be necessary. He supposed when the benefits of this contin$^{l}$ revenue should be experienced it would incline the States to concur in making additions to it. He abetted the opposition of Mr. Woolcot to the motion of Mr. Rutledge which proposed that each State should be credited for the duties collected within its ports ; dwelt on

the injustice of it, said that Connecticut, before the revolution did not import $\frac{1}{50}$, perhaps not $\frac{1}{100}$, part of the merchandize consumed within it, and pronounced that such a plan w^d^ never be agreed to. He concurred in the expediency of new-modelling the scheme of the impost by defining the period of its continuance; by leaving to the State the nomination, & to Congress the appointment of Collectors or vice versa; and by a more determinate appropriation of the revenue. The first object to which it ought to be applied was he thought, the foreign debt. This object claimed a preference as well from the hope of facilitating further aids from that quarter, as from the disputes into w^ch^ a failure may embroil the U. S. The prejudices ag^st^ making a provision for foreign debts which s^d^ not include the domestic ones was he thought unjust & might be satisfied by immediately requiring a tax in discharge of which loan-office certificates should be receivable. State funds for the domestic debts would be proper for subsequent consideration. He added, as a further objection against crediting the States for the duties on trade respectively collected by them, that a mutual jealousy of injuring their trade by being foremost in imposing such a duty would prevent any from making a beginning.

Mr. Williamson said, that Mr. Rutledge's motion at the same time that it removed some objections, introduced such as would be much more fatal to the measure. He was sensible of the necessity of some alterations, particularly in its duration & the appointment of the Collectors. But the crediting the States severally for the amount of their collections was so palpably unjust & injurious that he thought candor required that it should not be persisted in. He was of opinion that the interest of the States, which trade for others, also required it, since such an abuse of the advantage possessed by them would compel the States for which they trade to overcome the obstacles of nature & provide supplies for themselves. N. Carolina he said would probably be supplied pretty much thro Virg^a^, if the latter forbore to levy a tax on the former, but in case she did not forbear, the ports of N. C., which are nearly as deep as those of Holland, might & probably w^d^ be substituted. The profits drawn by the more commercial States from the business they carry on

for the others, were of themselves sufficient & ought to satisfy them.

Mr. Ramsay differed entirely from his colleague (Mr. Rutledge). He thought that as the consumer pays the tax, the crediting the States collecting the impost, unjust. N. Carolina, Maryland, N. Jersey & Connecticut would suffer by such a regulation and would never agree to it.

Mr. Bland was equally ag$^{st}$ the regulation. He thought it replete with injustice & repugnant to every idea of finance. He observed that this point had been fully canvassed at the time when the impost was originally recommended by Congress, & finally exploded. He was indeed he said opposed to the whole motion (of Mr. Rutledge). Nothing would be a secure pledge to Creditors that was not placed out of the Countrol of the grantors. As long as it was in the power of the States to repeal their grants in this respect, suspicions would prevail, & w$^{d}$ prevent loans. Money ought to be approated by the States as it is by the Parliament of G. B. He proposed that the revenue to be Solicited from the States should be irrevocable by them without the consent of Congress, or of nine of the States. He disapproved of any determinate limitation to the continuance of the revenue, because the continuance of the debt could not be fixed and that was the only rule that could be proper or satisfactory. He said he should adhere to these ideas in the face of the Act of Virg$^{a}$ repealing her assent to the impost; that it was trifling with Cong$^{s}$ to enable them to contract debts, & to withhold from them the means of fulfilling their contracts.

Mr. Lee said he seconded the motion of Mr. Rutledge, because he thought it most likely to succeed; that he was persuaded the States would not concur in the impost on trade without a limitation of time affixed to it. With such a limitation and the right of collection, he thought Virg$^{a}$, R. Island & the other States probably w$^{d}$ concur. The objection of his Colleague, (Mr. Bland) he conceived to be unfounded: No Act of the States could be irrevocable, because if so called it might notwithstanding be repealed. But he thought there w$^{d}$ be no danger of a repeal, observing that the national faith was all the security that was given in other countries, or that could be given. He was sensible that

something was of necessity to be done in the present alarming crisis ; and was willing to strike out the clause crediting the States for their respective collections of the revenue on trade, as it was supposed that it w^d^ impede the measure.

Mr. Hamilton disliked every plan that made but partial provision for the public debts ; as an inconsistent & dishonorable departure from the declaration made by Cong^s^ on that subject. He said the domestic Creditors would take the alarm at any distinctions unfavorable to their claims ; that they would withhold their influence from any such measures recommended by Congress ; and that it must be principally from their influence on their respective legislatures that success could be expected to any application from Cong^s^ for a general revenue.

THURSDAY, 30 JAN^Y^

The answer to the Memorials from the Legislature of Penn^a^ was agreed to as it stands on the Journal, N. Jersey alone dissenting.[1]

In the course of its discussion several expressions were struck out which seemed to reprehend the States for the deficiency of their contributions. In favor of these expressions it was urged that they were true and ought to be held forth as the cause of the public difficulties in justification of Congress. On the other side

[1] The answer entered at length into the existing condition of the continental finances, stating that no State had taken separate measures for satisfying its own citizens, as Pennsylvania threatened to do, and that, as the various certificates had passed from one person to another a provision by a State for their redemption must exclude the demands of many of its own citizens or admit the demands of all ; that it would be impossible to pay past debts and run the government, wherefore provision should be made for the interest only. It called attention to the fact that the five per cent. impost was recommended February 3, 1781, but after a delay of two years Congress had the mortification to find that one State [Rhode Island] entirely refused to agree to it, and that another [Virginia] had withdrawn its assent, and a third [Georgia] had taken no action ; that Congress had been unable to fulfill its engagements with the public creditors, because of the defective compliances by the States at every stage of the war. For the year 1782, it said, Congress had asked $8,000,000 and had been supplied by the States with only $430,031. The King of France

it was urged y^t^ Congress had in many respects been faulty as well as the States, particularly in letting their finances become so disordered before they began to apply any remedy; and that if this were not the case, it would be more prudent to address to the States a picture of the public distresses & danger, than a satire on their faults; since the latter would only irritate them; whereas the former w^d^ tend to lead them into the measures supposed by Congress to be essential to the public interest.

The propriety of mentioning to the Legislature of Penn^a^ the exped^t^ into which Congress had been driven of drawing bills on Spain & Holland without previous warrant; the disapp^t^ attending it, and the deductions ultimately ensuing from the aids destined to the U. S. by the C^t^ of France, was also a subject of discussion. On one side it was represented as a fact which being dishonorable to Congress ought not to be proclaimed by them, & that in the present case it c^d^ answer no purpose. On the other side it was contended that it was already known to all the world, that as a glaring proof of the public embarrassm^ts^ it would impress the Legislature with the danger of making those separate appropriations which w^d^ increase the embarrassments; and particularly would explain in some degree the cause of the discontinuance of the French interest due on the loan office certificates.

Mr. Rutledge & some other members having expressed less solicitude about satisfying or soothing the Creditors within P^a^ through the legislature than others thought ought to be felt by every one, Mr. Wilson, adverting to it with some warmth, declared

had lent the United States 6,000,000 livres and John Adams had opened a loan in Holland and obtained only 3,000,000 livres, making in all 9,000,000 livres, which after deducting anticipations left but 5,000,000 livres, which at the existing rate of exchange amounted to $833,333. At the beginning of the year 1782 there was $292,453 in the Treasury, so that the whole amount for carrying on the government during 1782 amounted to $1,545,812. The cost of the army alone amounted to $5,713,610, for feeding, clothing, and pay, excluding horses, tents, forage, etc. Therefore, in spite of discouraging obstacles, Congress conceived it to be its duty to persevere in the endeavor to procure revenues equal to the purpose of funding all the debts, and the subject was then under solemn deliberation. Finally they called attention to their recommendation of September 6, 1780, for a cession of part of the Western territory claimed by particular states.—*Journals of Congress*, iv., 153, *et seq.*

that if such indifference should prevail, he was little anxious what became of the answer to the Memorials. Penᵃ, he was persuaded would take her own measures without regard to those of Congress, and that she ought to do so. She was willing he said to sink or swim according to the common fate, but that she would not suffer herself, with a mill-stone of 6,000,000[1] of the Contin[l] debt about her neck to go to the bottom alone.

FRIDAY, JANʸ 31.

The instruction to the Vᵃ delegates from that State relative to tobᵒ exported to N. Y., under passport from the Secʸ of Congress was referred to a Committee. Mr. Fitzsimmons moved that the information received from sᵈ State of its inability to contribute more than ———— towards the requisitions of Congress, sᵈ be also committed. Mr. Bland saw no reason for such commitment. Mr. Ghoram was in favʳ of it. He thought such a resolution from Vᵃ was of the most serious import; especially if compared with her withdrawal of her assent to the Impost. He said with much earnestness, that if one State should be connived at in such defaults others would think themselves entitled to a like indulgence. Massᵗˢ, he was sure had a better title to it than Vᵃ. He said the former had expended immense sums in recruiting her line, which composed almost the whole Northⁿ Army; that 1,200,000 £ (dollar at 6s) had been laid out; & that without this sum the army would have been disbanded.

Mr. Fitzsimmons abetting the animadversions on Virgᵃ, took notice that of ——— Dollars reqᵈ by Congress from her for the year 1782, she had paid the paltry sum only of 35,000 Dʳˢ and was notwithstanding endeavouring to play off from further contributions.—The comitment took place without opposition.

The sub-committee, consisting of Mr. Madison, Mr. Carroll & Mr. Wilson had this morning a conference with the Superintendᵗ of Finance on the best mode of estimating the value of land through the U. S. The Superintendᵗ was no less puzzled on the subject than the Committee had been. He thought some essay

[1] He supposed that sum due by the U. S. to Citizens of Pennᵃ, for loans. [Note in MS.]

ought to be made for executing the Confederation, if it s$^{d}$ be practicable, & if not to let the impracticability appear to the States. He concurred with the sub committee also in opinion that it would be improper to refer the valuation to the States, as mutual suspicions of partiality, if not a real partiality, would render the result a source of discontent; and that even if Cong$^{s}$ should expressly reserve to themselves a right of revising & rejecting it, such a right could not be exercised without giving extreme offence to the suspected party. To guard ag$^{st}$ these difficulties it was finally agreed, & the Sub committee accordingly reported to the G Committee,

"That it is expedient to require of the Several States a return of all surveyed & granted land within each of them; and that in such return the land be distinguished into occupied & unoccupied.

"That it also was expedient to appoint one Commiss$^{r}$ for each State who should be empowered to proceed without loss of time into the several States; & to estimate the value of the lands therein according to the returns above mentioned, & to such instructions as should from time to time be given him for that purpose."

This report was hurried in to the Grand Coñitee for two reasons; 1$^{st}$, it was found that Mr. Rutledge, Mr. Bland, & several others relied so much on a valuation on land, and connected it so essentially with measures for restoring public credit that an extreme backwardness on their part affected all these measures, whilst the valuation of land was left out. A 2$^{d}$ reason was that the Sub-Committee were afraid that suspicions might arise of intentional delay, in order to confine the attention of Cong$^{s}$ to general funds as affording the only prospect of relief.

The Grand Committee for like reasons were equally impatient to make a report to Congress; and accordingly after a short consultation the question was taken whether the above report of the Sub-com$^{e}$, or the report referred to them s$^{d}$ be preferred. In favor of the 1$^{st}$ were Mr. Wilson, Mr. Carrol, Mr. Madison, Mr. Elmore, Mr. Hamilton. In favor of the 2$^{d}$ were Mr. Arnold, Mr. Dyer, Mr. Hawkins, Mr. Ghoram, Mr. Rutledge & Mr. Gilman. So the latter was immediately handed in to Congress, &

referred to a committee of the whole into which they immediately resolved themselves.

A motion was made by Mr. Bland, 2$^{ded}$ by Mr. Madison, that this report s$^{d}$ be taken up in preference to the subject of General funds. Mr. Wilson opposed it as irregular & inconvenient to break in on an unfinished subject; and supposed that as some further experiment must be intended than merely a discussion of the subject in Congress, before the subject of Gen$^{l}$ funds would be seriously resumed, he thought it unadvisable to interrupt the latter.

Mr. Madison answered that the object was not to retard the latter business but to remove an obstacle to it, that as the two subjects were in some degree connected as means of restoring public credit, & inseparably connected in the minds of many members, it was but reasonable to admit one as well as the other to a share of attention; that if a valuation of land s$^{d}$ be found on mature deliberation to be as efficacious a remedy as was by some supposed, it w$^{d}$ be proper at least to combine it with the other expedient, or perhaps to substitute it altogether; if the contrary should become apparent, its patrons w$^{d}$ join the more cordially in the object of a general revenue.

Mr. Hamilton concurred in these ideas & wished the valuation to be taken up in order that its impracticability & futility might become manifest. The motion passed in the Affirmative, & the report was taken up.

The phraseology was made more correct in several instances.

A motion was made by Mr. Boudinot 2$^{ded}$ by Mr. Elseworth to strike out the clause requiring a return of "*the names of the owners*," as well as the quantity of land. Mr. Elseworth also contended for a less specific return of the parcels of land. The objection ag$^{st}$ the clause were that it would be extremely troublesome & equally useless. Mr. Bland thought these specific returns w$^{d}$ be a check on frauds & the suspicion of them. Mr. Williamson was of the same opinion, as were also Mr. Lee, Mr. Ghoram, & Mr. Ramsay.[1] The motion was withdrawn by Mr. Boudinot.

SATURDAY & MONDAY. No Congress.

[1] Mr. Dyer ludicrously proposed as a proviso to the scheme of referring the valuation to the States, "that each of the States should cheat equally." [Note in MS.]

TUESDAY, FEB. 4.

An indecent & tart remonstrance was re$^{d}$ from Vermont ag$^{st}$ the interposition of Cong$^{s}$ in favor of the persons who had been banished & whose effects had been confiscated. A motion was made by Mr. Hamilton 2$^{d}$ by Mr. Dyer to commit it. Mr. Wolcot who had always patronized the case of Vermont wished to know the views of a committment. Mr. Hamilton said his view was to fulfill the resolution of Congress w$^{ch}$ bound them to enforce the measure. Mr. Dyer s$^{d}$ his was that so dishonorable a menace might be as quickly as possible renounced. He said Gen$^{l}$ Washington was in favour of Vermont, that the principal people of N. England were all supporters of them, and that Congress ought to rectify the error into which they had been led, without longer exposing themselves to reproach on this subject. It was committed without dissent.

Mr. Wilson informed Congress that the Legislature of Pen$^{a}$ having found the Ordinance of Cong$^{s}$ erecting a Court for piracies so obscure in some points that they were at a loss to adapt y$^{r}$ laws to it, had appointed a Com$^{e}$ to confer with a Com$^{e}$ of Congress. He accordingly moved in behalf of the P$^{a}$ delegation that a Com$^{e}$ might be app$^{d}$ for that purpose. After some objections by Mr. Madison ag$^{st}$ the impropriety of holding a communication with P$^{a}$ through committees when the purpose might be as well answered by a Memorial or an instruction to its Delegates, a Com$^{e}$ was app$^{d}$, consisting of Mr. Rutledge, Mr. Madison & Mr. Wilson.

The Report proposing a commutation for the half-pay due to the army, was taken up. On a motion to allow 5½ years whole pay in gross to be funded & bear interest, this being the rate taken from Dr. Price's calculation of annuities, N. H. was no, R. I. no, Con$^{t}$ no, N. J., no, Virginia ay (Mr. Lee no) other States ay. So the question was lost.—5 years was then proposed, on which N. H. was no, R. I. no, C$^{t}$ no, N. J. no. So there were but 6 ays, & the proposition was lost. Mr. Williamson proposed 5¼ & called for the yeas & nays. Messrs. Wolcot & Dyer observed, y$^{t}$ they were bound by instructions on this subject. Mr. Arnold said the case was the same with him. They also

queried the validity of the Act of Cong$^{s}$ which had stipulated half pay to the army, as it had passed before the Confederation, and by a vote of less than seven States. Mr. Madison s$^{d}$ that he wished if the yeas & nays were called it might be on the true calculation, and not on an arbitrary principle of compromise, as the latter standing singly on the Journal w$^{d}$ not express the true ideas of the yeas, and might even subject them to contrary interpretations. He s$^{d}$ that the act was valid because it was decided according to the rule then in force, & that as the officers had served under the faith of it, justice fully corroborated it ; & that he was astonished to hear these principles controverted. He was also astonished to hear objections ag$^{st}$ a commutation come from States in compliance with whose objections ag$^{st}$ the half pay itself this exped$^{t}$ had been substituted. Mr. Wilson expressed his surprise also that instructions s$^{d}$ be given which militated ag$^{st}$ the most peremptory & lawful engagements of Cong$^{s}$, and said that if such a doctrine prevailed the authority of the Confederacy was at an end. Mr. Arnold said that he wished the report might not be decided on at this time, that the Assembly of R. I. was in session & he hoped to receive their further advice. Mr. Bland enforced the ideas of Mr. Madison & Mr. Wilson.—Mr. Gilman thought it w$^{d}$ be best to refer the subject of ½ pay to the several States to be settled between them & their respective lines. By general consent the Report lay over.

Mr. Lee communicated to Congress a letter he had received from Mr. Samuel Adams dated Boston Dec$^{r}$ 22, 1782, introducing Mr. ——— from Canada, as a person capable of giving intelligence relative to affairs in Canada & the practicability of uniting that Province with the confederated States. The letter was committed.

In Com$^{e}$ of the whole on the Report concerning a valuation of the lands of the U. States —

A motion was made by Mr. Rutledge w$^{ch}$ took the sense of Cong$^{s}$ on this question whether the rule of apportionment to be grounded on the proposed valuation s$^{d}$ continue in force until revoked by Cong$^{s}$, or a period be now fixed beyond which it s$^{d}$ not continue in force. The importance of the distinction lay in the necessity of having seven votes on every act of Cong$^{s}$.

The Eastern States were generally for the latter, supposing that the Southern States being impoverished by the recent havoc of the enemy would be underrated in the first valuation. The Southern States were for the same reason interested in favor of the former. On the question there were 6 ays only, which produced a dispute whether in a Committee of the whole a majority w^d^ decide, or whether 7 votes were necessary.

In favor of the first rule it was contended by Mr. Ghoram & others, that in Committees of Congress the rule always is that a majority decides.

In fav^r^ of the latter it was contended that if the rule of other committees applies to a com^e^ of the whole, the vote s^d^ be individual per capita, as well as by a majority, that in other deliberative assemblies, the rules of *voting* were not varied in Comm^es^ of the whole, & that it w^d^ be inconvenient in practice to report to Cong^s^ as the sense of the body, a measure approved by 4 or 5 States, since there could be no reason to hope that in the same body in a different form 7 States w^d^ approve it, and consequently a waste of time would be the result.

Com^e^ rose & Con^s^ Adjourned.

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WEDNESDAY FEBR^Y^ 5 & THURSDAY, FEB^Y^ 6.

In order to decide the rule of voting in a Com^e^ of the whole, before Cong^rs^ should go into the said Com^e^, Mr. Bland moved that the rule s^d^ be to vote by States, & *the majority of States in Com^e^ to decide.* Mr. Wilson moved to postpone Mr. B^s^ motion in order to resolve that the rule be to vote by States and according to the same rules which govern Congress; as this gen^l^ question was connected in the minds of members with the particular question to which it was to be immediately applied. The motion for postponing was negatived, Chiefly by the Eastern States. A division of the question on Mr. Bland's motion was then called for & the first part was agreed to as on the Journal. The latter clause, to wit, a majority to decide, was negatived; so nothing as to the main point was determined. In this uncertainty Mr. Osgood proposed that Cong^rs^ should resolve itself into a Com^e^ of the whole. Mr. Carroll as chairman observed that as the same

difficulty would occur, he wished Cong$^{s}$ would previously direct him how to proceed. Mr. Hamilton proposed that the latter clause of Mr. Bland's motion sh$^{d}$ be reconsidered and agreed to wrong as it was, rather than have no rule at all. In opposition to which it was s$^{d}$ that there was no more reason why one & that not the minor side s$^{d}$ wholly yield to the inflexibility of the other y$^{n}$ vice versa ; and that if they s$^{d}$ be willing to yield on the present occasion, it w$^{d}$ be better to do it tacitly, than to saddle themselves with an express & perpetual rule which they judged improper. This expedient was assented to and Congress accordingly went into a Committee of the Whole.

The points arising on the several amendm$^{ts}$ proposed were 1$^{si}$ the period beyond w$^{ch}$ the rule of the first valuation s$^{d}$ not be in force, on this point Mr. Collins proposed 5 years, Mr. Bland 10 years, Mr. Boudinot 7 years, N. Jersey hav$^{g}$ instructed her Delegates thereon. The Con$^{t}$ delegates proposed 3 years. On the question for 3 years, N. H. no, Mas. no, R. I. ay, Con$^{t}$ ay, all the other States no. On the question for 5 years, all the States ay except Con$^{t}$

The 2$^{d}$ point was whether & how far the rule s$^{d}$ be retrospective. On this point the same views operated as on the preceding. Some were ag$^{st}$ any retrospection, others for extending it to the whole debt, and others for extend$^{g}$ it so far as was necessary for liquidating and closing the accounts between the United States and each individual State.

The several motions expressive of these different ideas were at length withdrawn, with a view that the point might be better digested, & more accurately brought before Congress. So the rep$^{t}$ was agreed to in the Com$^{e}$ & made to Congress. When the question was about to be put Mr. Madison observed that the report lay in a great degree of confusion, that several points had been decided in a way too vague & indirect to ascertain the real sense of Cong$^{s}$, that other points involved in the subject had not rec$^{d}$ any decision ; and proposed the sense of Cong$^{s}$ sho$^{d}$ be distinctly & successively taken on all of them & the result referred to a special Com$^{e}$ to be digested &c. The question was however put & negatived the votes being as they appear on the Journal. The reasons on which Mr. Hamilton's motion was grounded appear from its preamble.

FRIDAY, FEB$^{Y}$ 7.

On motion of Mr. Lee who had been absent when the Report was yesterday negatived, the matter was reconsidered. The plan of taking the sense of Cong$^{s}$ on the several points as yesterday proposed by Mr. Madison, was generally admitted as proper.

The first question prop$^{d}$ in Com$^{e}$ of the whole by Mr. Madison, was: Q: Shall a valuation of land within the U. S. as directed by the Articles of confederation be immediately attempted? — 8 ays N. Y. only no. The States present were N. H., Mas. Con$^{t}$ N. Y. N. J. P$^{a}$ V$^{a}$ N. C. S. C. R. I. 1 member, Mar$^{d}$ 1 $^{do}$

By Mr. Wilson,

Q. Shall each State be called on to return to the U. S. in Cong$^{s}$ ass$^{d}$ the n$^{o}$ of acres granted to or surveyed for any person, and also the n$^{o}$ of buildings within it? 8 ayes—N. C. no—supposing this not to accord with the plan of referring the valuation to the States, which was patronized by that Delegation. A supplement to this question was suggested as follows.

Q. Shall the male inhabitants be also returned, the blacks & whites being therein distinguished? ay, N. C. no for the same reason as above. Con$^{t}$ divided.

By Mr. Madison,

Q. Shall the States be called on to return to Cong$^{s}$ an estimate of the value of its lands with the buildings & improvements within each respectively? After some discussion on this point in wh$^{ch}$ the inequalities which w$^{d}$ result from such estimates were set forth at large; and effects of such an experiment in Virg$^{a}$ had been described by Mr. Mercer, and a comparison of an Average valuation in P$^{a}$ & V$^{a}$ which amounted in the latter to 50 PC$^{t}$ more than in the former, altho' the real value of land in the former was confessedly thrice that of the latter had been quoted by Mr. Madison, the apprehensions from a reference of any thing more to the States than a report of simple facts increased, and on the vote the States were as follows: N. H. Mas N. J. P$^{a}$ V$^{a}$ no Mr. Bland ay Mr. Lee silent Con$^{t}$: N. C. S. C. ay, N. Y. div$^{d}$: so it passed in the negative.

By Mr. Madison,

Q. Shall a period be now fixed beyond which the rule to be eventually estab$^{d}$ by Cong$^{s}$ shall not be in force? ay, unanimously.

By Mr. Madison,

Q. What shall that period be? Con$^{t}$ was again for 3 years, which being rej$^{d}$ 5 y$^{rs}$ passed unanimously.

By Mr. Madison,

Q. Shall the rule so to be estab$^{d}$ have retrospective operation so far as may be necessary for liquidating & closing the acct$^{s}$ between the U. S. & each particular State? Ay — Con$^{t}$ no. Mr. Dyer & Mr. Mercer understood this as making the am$^{t}$ of the several requisitions of Cong$^{s}$, and not of the paym$^{ts}$ by y$^{e}$ States, the standard by which the acc$^{ts}$ were to be liquidated and thought the latter the just quantum for retrospective appointment. Their reasoning however was not fully comprehended.

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SATURDAY, FEB$^{Y}$ 8.

Com$^{e}$ of the Whole.

Mr. Mercer revived the subject of retrospective operation; and after it had been much discussed & the difference elucidated w$^{ch}$ might happen between apportion$^{g}$, according to the first valuation which s$^{d}$ be made, merely the sums paid on the requisitions of Cong$^{s}$, & apportion$^{g}$ the whole Requisitions, consisting of the sums paid & the deficiencies, which might not be p$^{d}$ until some distant day, when a different rule formed under different circumstances of the States s$^{d}$ be in force, the assent to the last question put yesterday was reversed, & there was added to the preceding question, after "5 years,"—"and shall operate as a rule for apportioning the sums necessary to be raised for supporting the public credit & other contingent expenses & for adjusting all accounts between the U. States & each particular State for monies paid or articles furnished by them & for no other purpose whatsoever." On this question there were 6 ays—so it became a vote of the Com$^{e}$ of the whole

MONDAY, FEB.Y 10

For The Report of the Committee on the Resolutions of V.a, concerning the contract Under which Tob.o was to be exported to N. Y. [1] and the admission of circumstantial proof of acc.ts ag.st the U. S., where legal vouchers had been destroyed by the enemy, see the Journal of this date.

Mr. Mercer informed Congress that this matter had made much noise in V.a; that she had assented to the export of the first quantity, merely out of respect to Cong.s, and under an idea that her rights of Sovereignty had been encroached upon; and that, as a *further quantity* had been exported *without the license of the State*, the question was unavoidable, whether the authority of Cong.s extended to the act. He wished therefore that Congress w.d proceed to decide the question.

Mr. Fitzsimmons in behalf of the Committee, observed that they went no further than to examine whether the proceedings of the officers of Cong.s were conformable to the Resol.n of Cong.s & not whether the latter were within the power of Cong.s

Mr. Lee s.d the Rep.t did not touch the point that, the additional quantity had been exported without application to the State, altho' the first quantity was licensed by the State with great reluctance, in consequence of the request of Cong.s, and of assurances ag.st a repetition, and that the Superintend.t & Sec.y of Cong.s ought at any rate to have made application to the Executive before they proceeded to further exportations.

Mr. Rutledge s.d the Rep.t went to the very point, that V. suspected the Resol.s of Cong.s had been abused by the officers of Cong.s, and the Rep.t shewed that no such abuse had taken place; that if this information was not satisfactory, and the State s.d contest the right of Cong.s in the case, it w.d then be proper to answer it on that point, but not before. He s.d, if the gentleman (Mr. Lee) meant that the Com.e authorized by Cong.s on the —— day of —— to make explanations on the subject to the Legislature of V.a had given the assurances he mentioned, he must be mistaken;

[1] It found that the Superintendent of Finance in arranging for the tobacco and the Secretary of Congress in granting it a passport had both acted in conformity with the authority of Congress.—*Journals of Congress*, iv., 159, 160.

for none such had been given. He had he s^d^ formed notes of his remarks to the Leg^e^ but accord^g^ to his practice had destroyed them after the occasion was over, and therefore c^d^ only assert this from Memory ; that nevertheless his memory enabled him to do it with certainty.

Mr. Lee, in explanation s^d^ he did not mean the Com^e^ ; that the abuse complained of was not that the Resolu^ns^ of Cong^s^ had been exceeded, but that the export had been undertaken without the Sanction of the State. If the acts were repeated, he said, great offence w^d^ be given to V^a^

The Report was ag^d^ to as far as the Tob^o^ was concerned without a dissenting voice, Mr. Lee uttering a *no*, but not loud enough to be heard by Congress or the chair. The Part relating to the loss of Vouchers was unanimously ag^d^ to.

*Com^e^ of the Whole.*

The Rep^t^ for the valuation of land was amended by the insertion of "distinguishing dwelling houses from others."

The Com^e^ adjourned & the report was made to Cong^s^

Mr. Lee & Mr. Jervais moved that the Report might be postponed to adopt another plan to wit "to call on the States to return a valuation ; and to provide that in case any return s^d^ not be satisfactory to all parties, persons s^d^ be app^d^ by Cong^s^ & others by the States respectively to adjust the case finally."—On this question N. H. was div^d^ ; Mas, no, R. I., ay : Con^t^, no, N. Y. div^d^, N. J., no, P^a^, no, V^a^, no, Mr. Madison & Mr. Jones, no ;—Mr. Lee & Mr. Bland, ay, N. C. ay, S. C. ay, so the motion failed.

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TUESDAY, FEB^Y^ 11.

The Rep^t^ made by the Com^e^ of the whole havg. decided that y^e^ mode to be grounded on the return of facts called for from y^e^ States ought now to be ascertained.

Mr. Rutledge proposed 2^d^ by Mr. Gilman, that y^e^ States s^d^ be required to name Com^rs^, each of them one, who or any nine of them s^d^ be app^d^ & empower^d^ by Cong^s^ to settle the valuation. Mr. Ghoram was ag^st^ it as parting with a power which might be turned by the States ag^st^ Cong^s^. Mr. Wolcot ag^st^ it ; declares his

opinion that the Confederation ought to be amended by substituting numbers of inhabitants as the rule ; admits the difference between freemen & blacks ; and suggests a compromise by including in the numeration such blacks only as were within 16 & 60 years of age. Mr. Wilson was ag$^{st}$ relinquishing such a power to the States, proposes that the commissioners be app$^{d}$ by Cong$^{s}$, and their proceedings subject to the ratification of Cong$^{s}$. Mr. Mercer was for submitting them to the revision of Cong$^{s}$, & this amendment was rec$^{d}$. Mr. Peters ag$^{st}$ the whole scheme of valuation, as holding out false lights & hopes to the public. Mr. Rutledge thinks Com$^{rs}$ app$^{d}$ by the States may be trusted as well as Com$^{rs}$ app$^{d}$ by Cong$^{s}$, or as Cong$^{s}$ themselves. Mr. Wilson observes, that if app$^{d}$ by the States they will bring with them the spirit of agents for their respective States — if app$^{d}$ by Cong$^{s}$ they will consider themselves as servants of the U. S. at large & be more impartial.

Mr. Ghoram, 2$^{ded}$ by Mr. Wilson, proposes to postpone in order to require the States to app$^{t}$ Com$^{rs}$, to give Cong$^{s}$ information for a basis for a valuation.—On the question N. H. no, Mas : ay, R. I. ay, Con$^{t}$ ay, N. Y. ay, N. J. ay, P$^{a}$ ay, V$^{a}$ no, N. C. no, S. C. no, so it was decided in the negative.

To make the resolution more clear, after the words "or any nine of them," the words "concurring therein" were added. Mr. Rutledge says that subjecting the acts of the Com$^{rs}$ to the revision of Cong$^{s}$ had so varied his plan that he s$^{d}$ be ag$^{st}$ it.—On the main question N. H. ay, Mas : ay, R. I. ay, Con$^{t}$ ay, N. Y. no, N. J. no, P$^{a}$ ay, V$^{a}$ ay (Mr. Madison no), N. C. ay, S. C. ay, so it was agreed to & the resolution declaring that a mode s$^{d}$ now be fixed struck out as executed. The whole report was then committed to a special Com$^{e}$ consisting of Mr. Rutledge Mr. Ghoram & Mr. Gilman to be formed into a proper act.[1]

[1] "The valuation of the lands of the U. S. as directed by the articles of Union has employed & puzzled Congress for the past week ; and after all the projects & discussions which have taken place, we seem only to have gone round in a circle to the point at which we set out. The only point on which Congress are generally agreed is that something ought to be attempted ; but what that something ought to be, is a theorem not solved alike by scarcely any two members ; and yet a solution of it seems to be made an indispensable

WEDNESDAY FEB$^{Y}$ 12

The declaration of Cong$^{s}$ as to Gen$^{l}$ Funds, Passed of Jany. the 29, as appears on the Journals ;[1] & Congress resolved itself into a Com$^{e}$ of the whole in order to consider the funds to be adopted and recommended to the States. On motion of Mr. Mifflin the impost of 5 Per C$^{t}$ was taken into consideration. As it seemed to be the general opinion that some variations from the form in which it had been first recomended w$^{d}$ be necessary for reconciling the objecting States to it, it was proposed that the sense of the Com$^{e}$ should be taken on that head. The following questions were accordingly propounded :

Que 1. Is it expedient to alter the impost as recommended on the ——— day of ———, 1781 ?

Mr. Lee said the States particularly Virg$^{a}$ w$^{d}$ never concur in the measure unless the term of years were limited, the collection left to the States, & the appropriation annually laid before y$^{m}$

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preliminary to other essays for the public relief. The Deputation from the army is waiting the upshot of all these delays & dilemmas.

"When I mentioned to you the subject of your conversation with Dr. McClurg, I ought to have added that one reason which influenced the resig— of Mr. Livingston was an expence experienced of three thousand dollars beyond the salary. I wish this circumstance not to be withheld as it must be material in the case, and it would be a real affliction to me to be accessory to a disappointment. For the same reason it is incumbent on me to observe that I hold it to be very uncertain whether [the] place in question will be within the option of our friend, as I hold, indeed, the continuance of the place itself to be a little precarious.

" Mr. J. is detained at Baltimore by the danger w$^{ch}$ besets the capes. The situation he writes me is far from being a pleasant one and yet I fear the avidity & vigilance of the enemy will prevent his being quickly relieved from it. Mr. Mercer filled up the remaining blank in the Delegation on Wednesday last.

" This city is full of reports concerning peace, but they all come by the way of the W. I., and are the more uncertain as they come too thro' mercantile channels. The fall of goods which is taking place augurs well, however."—*Madison to Edmund Randolph*, February 11, 1783. *Mad. MSS.*

[1] *Resolved*, That Congress be resolved into a committee of the whole, to consider of the most effectual means of restoring and supporting public credit ; and that the motion before the house be referred to that committee."—*Journals of Congress*, iv., 153.

Mr. Wolcot thought the revenue ought to be commensurate in point of time as well as amount to the debt; that there was no danger in trusting Cong$^{s}$, considering the responsible mode of its app$^{t}$ and that to alter the plan w$^{d}$ be a mere condescension to the prejudices of the States.

Mr. Ghoram favored the alteration for the same reason as Mr. Lee. He said private letters informed him that the opposition to the impost law was gaining ground in Mass$^{ts}$, and the repeal of Virg$^{a}$ would be very likely to give that opposition the ascendance. He said our measures must be accommodated to the sentiments of the States whether just or unreasonable.

Mr. Hamilton dissented from the particular alterations suggested, but did not mean to negative the question.

Mr. Bland was for conforming to the ideas of the States as far as w$^{d}$ in any manner consist with the object.

On the Question the affirmative was unanimous excepting the voice of Mr. Wolcot.

Que 2$^{d}$ Shall the term of duration be limited to 25 years?

Mr. Mercer professed a decided opposition to the principle of general revenue, observed that the liberties of Eng$^{d}$ had been preserved by a separation of the purse from the sword; that untill the debts s$^{d}$ be liquidated & apportioned he w$^{d}$ never assent in Cong$^{s}$ or elsewhere to the scheme of the Impost.

Mr. Bland proposed an alternative of 25 years, or until the requisitions of Cong$^{s}$, according to the Articles of Confed$^{n}$, shall be found adequate. On this proposition the votes were of N. H. div$^{d}$, R. I. no, Con$^{t}$ no, N. Y. no N. J. no, P$^{a}$ no, Virg$^{a}$ ay, N. C. div$^{d}$; S. C. ay, so the proposition was not agreed to.

On the main question for 25 years it was voted in the affirmative.

Q. 3. Shall the appointm$^{t}$ of Collectors be left to the States, they to be amenable to & under the controul of, Cong$^{s}$? — ay; several States as N. Y. & P$^{a}$ dissenting.[1]

[1] In the meantime tidings of peace were momentarily expected. Madison wrote to his father Feby. 12:

"I readily suppose, from the reports prevalent here, that some information on the subject of peace will be expected, & I wish it were in my power to gratify you. The truth is, we are in nearly as great uncertainty here as you

THURSDAY, FEB.Y 13TH.

The Com.e report to Cong.s the alterations yesterday agreed on with respect to the 5 Per C.t Impost.

The Deputy Sec.y at War reported to Congress the result of the inquiry directed by them on the [24th] day of [January,] into the seizure of goods destined for the British Prisoners of war under passport from Gen.l Washington. From this report it appeared that some of the Seizors had pursued their claim under the law of the State & that in consequence the goods had been condemned & ordered for sale. The papers were referred to a Com.e consisting of Mr. Rutledge, Mr. Ghoram & Mr. Lee, who after hav.g retired for a few moments reported, that the Sec.y of War should be authorized & directed to cause the goods to be taken from the places where they had been deposited, to employ such force as w.d be sufficient, and that the Duke de Lauzun whose Legion was in the neighbourhood, should be requested to give the Sec.y such aid as he might apply for.

This report was generally regarded by Cong.s as intemperate, and the proposed recourse to the French Legion as flagrantly imprudent. Mr. Hamilton said that if the object had been to embroil the country w.th their Allies the expedient would have been well conceived.[1] He added that the exertion of force would not under these circumstances meet the sense of the people at large. Mr. Ghoram s.d he denied this with respect to the people of Massachusetts.

Mr. Lee on the part of the Com.e said that the D. de Lauzun had been recurred to as being in the neighbourhood & having Cavalry under his Command which would best answer the occa-

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can be. Every day almost brings forth some fresh rumour, but it is so mingled with mercantile speculations that little faith is excited. The most favorable evidence on the side of peace seems to be a material fall in the price of imported goods, which considering the sagacity and good intelligence of merchants is a circumstance by no means to be despised. A little time will probably decide in the case, when I shall follow this with something more satisfactory." *Mad. MSS.*

[1] This was an oblique allusion to Mr. Lee, whose enmity to the French was suspected by him &c. [Note in MS.]

sion ; and that the Report was founded on wise & proper considerations.

Mr. Mercer, Mr. Williamson Mr. Ramsay Mr. Wilson & Mr. Madison, strenuously opposed the Report, as improper altogether as far as it related to the French Legion, and in other respects so until the State of P.ª s.d on a summons refuse to restore the articles seized.

Mr. Rutledge with equal warmth contended for the expediency of the measures reported.

Mr. Mercer & Mr. Madison at length proposed that Congress s.d assert the right on this subject & summon the State of Pen.ª to redress the wrong immediately. The Report was recommitted with this proposition & Mr. Wilson & Mr. Mercer added to y.e Com.e

The speech of the K. of G. B. on the 5.th of De.cr, 1782, arrived & produced great joy in general, except among the merch.ts who had great quantities of merchandize in store the price of which immediately & materially fell. The most judicious members of Cong.s however suffered a great diminution of their joy from the impossibility of discharging the arrears & claims of the army & their apprehensions of new difficulties from that quarter.[1]

FRIDAY FEB.y 14.

Mr. Jones Mr. Rutledge & Mr. Wilson to whom had been referred on Tuesday last a letter from Mr. Jefferson stating

[1] "I heartily congratulate you on the dawn of peace, presented in the enclosed paper. Apprehending that the commercial sagacity of this and intervening places may seize the crisis to speculate on the staple of Virginia, we have judged it prudent to despatch a messenger, with the intelligence to the Government. Private letters will also scatter it along the road.

"I will not damp your joy by dwelling on prospects which have that tendency ; but it will not be improper to hint to you, that there is much reason to believe that the cloud which has been some time lowering on the North river, will not be dispelled by the rays of peace. The opinion seems to be well founded, that the arms which have secured the liberties of their country will not be laid down, until justice is secured to those who have wielded them ; and that dangerous convulsions would be hazarded by orders for that purpose. I have not time to add more at present.—*Madison to Edmund Randolph*, February 15, 1783. Madison Papers (1840).

the obstacles to his voyage, reported that they had conferred with the Agent of Marine who s.d there was a fit vessel ready for sea in this port but was of opinion the arrival of the British King's Speech would put a stop to the sailing of any vessels from the ports of America untill something definite should take place; and that if Congress judged fit that Mr. Jefferson s.d proceed immediately to Europe it would be best to apply to the French Minister for one of the Frigates in the Chesapeake. The general opinion of Cong.s seemed to be that under present circumstances he s.d suspend his voyage untill the further order of Cong.s; and on motion of Mr. Ghoram, seconded by Mr. Wolcot the Sec.y of Foreign Affairs was accordingly without opposition directed to make this known to Mr. Jefferson.

The Report of the Com.e for obtaining a valuation of land was made & considered. See the Journal of this date.

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MONDAY FEB.Y 17.

The report respecting a valuation of land being lost as appears from the Journal, it was revived by the motion of Mr. Dyer seconded by Mr. Mercer as it stands,[1] the appointment of Comiss.rs by Cong.s for adjusting the quotas, being changed for a grand Committee consisting of a delegate present from each State, for that purpose.

A motion was made to strike out the clause requiring the concurrence of nine voices in the report to Congress; and on the question, shall the words stand? the States being equally divided the clause was expunged. It was thereafter reconsidered & re-inserted.

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[1] Voting Aye were New Hampshire, Massachusetts, Pennsylvania, Virginia, North Carolina and South Carolina; voting No were New York and New Jersey; evenly divided were Rhode Island and Connecticut. Maryland had but one delegate present, Charles Carroll, who voted No. In the Virginia delegation, Jones, Bland, and Mercer voted Aye, Madison and Lee voting No. —*Journals of Congress*, iv., 163.

On Dyer's motion all the States but New York and Maryland, through Carroll, whose vote did not count, voted Aye. Outside of New York and Maryland, Madison and Lee were the only delegates voting No.—*Id.*, 164.

The whole report was agreed to with great reluctance by almost all, by many from a spirit of accommodation only, & the necessity of doing something on the subject. Some of those who were in the negative particularly Mr. Madison, thought the plan not within the spirit of the Confederation, that it would be ineffectual, and that the States would be dissatisfied with it.

A motion was made by Mr. Hamilton 2$^{ded}$ by Mr. Fitzsimmons to renew the recommendation of the —— Feb$^{y}$, 1782 for vesting Congress with power to make abatements in favor of States parts of which had been in possession of the Enemy. It was referred to a committee.

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TUESDAY, FEB$^{Y}$ 18.

*Com$^{t}$ of the whole on the subject of gen$^{l}$ funds.*

Mr. Rutledge & Mr. Mercer proposed that the Impost of 5 Per C$^{t}$ as altered & to be recommended to the States, should be appropriated exclusively, first to the interest of y$^{e}$ debt to the army & then in case of surplus to the principal. Mr. Rutledge urged in support of this motion that it would be best to appropriate this fund to the army as the most likely to be obtained as their merits were superior to those of all other Creditors, and as it was the only thing that promised, what policy absolutely required, some satisfaction to them.

Mr. Wilson replied that he was so sensible of the merits of the army that if any discrimination were to be made among the public creditors, he should not deny them perhaps a preference, but that no such discrimination was necessary ; that the ability of the public was equal to the whole debt, and that before it be split into different descriptions the most vigorous efforts ought to be made to provide for it entire. That we ought first at least to see what funds could be provided, to see how far they would be deficient, and then, in the last necessity only to admit discriminations.

Mr. Ghoram agreed with Mr. Wilson. He said an exclusive appropriation to the army would in some places be unpopular and would prevent a compliance of those States whose Citizens were

the greatest Creditors of the United States ; since without the influence of the public creditors, the measure could never be carried through the States, and these if excluded from the appropriation would be even interested in frustrating the measure & keeping by that means their cause a common one with the army.

Mr. Mercer applauded the wisdom of the Confederation in leaving the provision of money to the States, said that when this plan was deviated from by Congress, their objects should be such as were best known & most approved ; that the States were jealous of one another, & w^d^ not comply unless they were fully acquainted with & approved the purpose to which their money was to be applied, that nothing less than such a preference of the army would conciliate them, that no Civil Creditor would dare to put his claims on a level with those of the army, and insinuated that the speculations which had taken place in loan office certificates might lead to a revision of that subject on principles of equity, that if too much were asked from the States they would grant nothing. He said that it had been alledged, that the large public debt if funded under Congress would be a cement of the Confederacy. He thought on the contrary it would hasten its dissolution ; as the people would feel its weight in the most obnoxious of all forms that of taxation.[1]

[1] "I am glad to find by your favor of the 7^th^ [ins] tant that the necessity of a re-adoption of the impost presses so strongly on your mind. To give it a fair experiment with the ensuing Assembly it will be indispensable that you should be its advocate on the floor. Those who effected its repeal will never inactively suffer it to be reinstated in our code. *Mercer* from *what motive God knows says* that *he will crawl to Richmond on his bare knees to prevent it.* Having already *changed his opinion on the* subject *he fears perhaps* the *charge of unsteadiness.* Perhaps too *his zeal* against *a general revenue may be cooled* by the accomplishment in *Congress of a plan* for a valuation of land *on the ruins of* which *he among others* suspected the former was to be *established.* This plan passed Congress yesterday. It proposes that the States shall return to Cong^s^ before Jan^y^ next their respective quantities of land the number of houses thereon distinguishing dwelling houses from others, and the no of Inhabitants distinguishing Whites from blacks. These data are to be referred to a Grand Com^e^, by whom a report in which nine voices must unite, is to be made to Congress which report is to settle the proportions of each State, & to be ratified or rejected by Cong^s^ without alteration. Who could have supposed that such a

On the question the States were all no except S. Carolina, which was ay.[1]

A motion was made by Mr. Rutledge, 2$^{ded}$ by Mr. Bland to change the plan of the impost in such a manner as that a tariff might be formed for all articles that would admit of it, and that a duty ad valorem s$^{d}$. be collected only on such articles as would not admit of it.

In support of such an alteration it was urged that it would lessen the opportunity of collusion between Collector & importer & would be more equal among the States. On the other side it was alledged that the States had not objected to that part of the plan, and a change might produce objections — that the nature & variety of imports would require necessarily the collection to be ad-valorem on the greater part of them, that the forming of a book of rates w$^{d}$ be attended with great difficulties & delays, and that it would be in the power of Congress by raising the rate of the article to augment the duty beyond the limitation of 5 per c$^{t}$ and that this consideration would excite objections on the part of the States—The motion was negatived—

A motion was made by M$^{r}$ Hamilton 2$^{ded}$ by M$^{r}$ Wilson ; that whereas Congres was desirous that the motives & views of their

measure could ever have been the offspring of a zealous and scrupulous respect for the Confederation ? . . ."—Madison to Edmund Randolph, February 18, 1783. (Italics for cypher.)

On the same day he wrote to Jefferson :

" The last paper from N. Y., as the inclosed will show you has brought us another token of the approach of peace. It is somewhat mysterious nevertheless that the preliminaries with America should be represented by Sec$^{t}$ Townsend as *actually signed* and those with France as *to be signed*, as also that the signing of the latter would constitute a general peace. I have never been without my apprehensions that some tricks would be tried by the British Court notwithstanding their exterior fairness of late, and these apprehensions have been rendered much more serious by the *tenor of some letters* which *you have seen* and particularly by the *intimation of Minister of France to Mr. Livingston.* These considerations have made me peculiarly solicitous that your mission should be pursued as long as a possibility remained *of your sharing in* the *object of it.*" (Italics for cypher).—*Mad. MSS.*

[1] Virg$^{a}$ —Mr. Jones, Mr. Madison, Mr. Bland, no ; Mr. Lee, Mr. Mercer, ay. [Note in MS.]

measures s^d^ be known to their constituents in all cases where the public safety w^d^ admit, that when the subject of finances was under debate the doors of Cong^s^ s^d^ be open. Cong^s^ adjourned it being the usual hour & the motion being generally disrelished —The P^a^ delegates said privately that they had brought themselves into a critical situation by dissuading their Constituents from separate provision for creditors of U. S. within Pen^a^ hoping that Cong^s^ w^d^ adopt a general provision, & they wished their constituents to see the prospect themselves & to witness the conduct of their Delegates. Perhaps the true reason was that, it was expected the presence of public creditors numerous & weighty in Phila^da^ w^d^ have no influence & that it w^d^ be well for the public to come more fully to the knowledge of the public finances.

Letter rec^d^ from W^m^ Lee at Ghent notifying the desire of the Emperor [of Austria] to form a commercial treaty with the U. S., and to have a resid^t^ from them. Com^d^ to M^r^ Izard, Ghoram & Wilson.

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WEDNESDAY, FEBRUARY 19.

The motion made yesterday by Mr. Hamilton for opening the doors of Congress when the subject of the finances should be under debate was negatived, Penn^a^ alone being ay.

A motion was made by Mr. Hamilton seconded by Mr. Bland to postpone the clause of the report made by the Com^e^ of the whole, for altering the Impost, viz. the clause limiting its duration to 25 years, in order to substitute a proposition declaring it to be inexpedient to limit the period of its duration ; first because it ought to be commensurate to the duration of the debt, 2^dly^ because it was improper in the present stage of the business, and all the limitation of which it w^d^ admit had been defined in the resolutions of ———, 1782.

Mr. Hamilton said in support of his motion that it was in vain to attempt to gain the concurrence of the States by removing the objections publickly assigned by them against the Impost, that these were the ostensible & not the true objections ; that the true objection on the part of R. I. was the interference of the impost

with the opportunity afforded by their situation of levying contributions on Con$^{t}$, &c, which rec$^{d}$ foreign supplies through the ports of R. I. that the true objection on the part of V$^{a}$. was her having little share in the debts due from the U. S. to which the impost would be applied; that a removal of the avowed objections would not therefore, remove the obstructions whilst it would admit on the part of Cong$^{s}$. that their first recommendation went beyond the absolute exigencies of the public; that Cong$^{s}$. having taken a proper ground at first, ought to maintain it till time should convince the States of the propriety of the measure.

Mr. Bland said that as the debt had been contracted by Congress with the concurrence of the States, and Cong$^{s}$. was looked to for payment by the public creditors, it was justifiable & requisite in them to pursue such means as would be adequate to the discharge of the debt; & that the means would not be adequate if limited in duration to a period within which no calculations had shewn that the debt w$^{d}$. be discharged.

On the motion the States were N. Hampshire divided, Mas$^{ts}$. no, R. Island ay; Con$^{t}$. div$^{d}$; N. York, ay, N. Jersey ay, Pen$^{a}$. ay, Virg$^{a}$. no (Mr. Bland ay) N. Carolina ay S. Carolina, ay. Mr. Rutledge said he voted for postponing not in order to agree to Mr. Hamilton's motion but to move & he accordingly renewed the motion made in Com$^{e}$. of the whole, viz that the Impost should be appropriated exclusively to the army. This motion was seconded by Mr. Lee.

Mr. Hamilton opposed the motion strenuously declared that as a friend to the army as well as to the other Creditors & to the public at large he could never assent to such a partial distribution of Justice; that the different States being differently attached to different branches of the public debt would never concur in establish$^{g}$ a fund w$^{ch}$. was not extended to every branch; that it was impolitic to divide the interests of the civil & military Creditors, whose joint efforts in the States would be necessary to prevail on them to adopt a general revenue.

Mr. Mercer favored the measure as necessary to satisfy the army & to avert the consequences which would result from their disappointment on this subject; he pronounced that the army would not disband until satisfactory provision should be made, &

that this was the only attainable provision ; But he reprobated the doctrine of permanent debt supported by a general & permanent revenue & said that it would be good policy to separate instead of cementing the interests of the Army & the other public creditors, insinuating that the claims of the latter were not supported by justice & said that the loan office certificates ought to be revised.

Mr. Fitzsimmons observed that it was unnecessary to make a separate appropriation of the Impost to one particular debt, since if other funds s$^{d}$ be superadded, there would be more simplicity & equal propriety in an aggregate fund for the aggregate debt funded ; and that if no other funds should be superadded it w$^{d}$ be unjust & impolitic ; that the States whose Citizens were the chief creditors of the U. S. w$^{d}$ never concur in such a measure ; that the mercantile interest which comprehended the chief Creditors of Pen$^{a}$ had by their influence obtained the prompt & full concurrence of that State in the Impost, and if that influence were excluded the State would repeal its law. He concurred with those who hoped the army w$^{d}$ not disband unless provision s$^{d}$ be made for doing them justice.

Mr. Lee contended that as every body felt and acknowledged the force of the demands of the army, an appropriation of the Impost to them w$^{d}$ recommend it to all the States ; that distinct & specific appropriations of distinct revenue was the only true System of finance, and was the practice of all other nations who were enlightened on this subject ; that the army had not only more merit than the mercantile creditors ; but that the latter would be more able on a return of peace to return to the business which would support them.

Mr. Madison said that if other funds were to be superadded as the Gentleman (Mr. Rutledge) who made the motion admitted, it was at least premature to make the appropriation in question ; that it w$^{d}$ be best to wait till all the funds were agreed upon & then appropriate them respectively to those debts to which they s$^{d}$ be best fitted that it was probable the impost would be judged best adapted to the foreign debt ; as the foreign Creditors could not like the domestic ever recur to particular States for separate payments and that as this w$^{d}$ be a revenue little felt it would be

prudent to assign it to those for whom the States w^d care least, leaving more obnoxious revenues for those Creditors who w^d excite the Sympathy of their Countrymen and c^d stimulate them to do justice.

Mr. Williamson was ag^st the motion ; said he did not wish the army to disband until proper provision should be made for them ; that if force s^d be necessary to excite justice, the sooner force was applied the better.

Mr. Wilson was against the motion of Mr. Rutledge, he observed that no instance occurred in the British history of finance in which distinct appropriations had been made to distinct debts *already* contracted ; that a consolidation of funds had been the result of experience ; that an aggregate fund was more simple & would be most convenient ; that the interest of the whole funded debt ought to be paid before the principal of any part of it ; and therefore in case of surplus of the impost beyond the interest of the army debt, it ought at any rate to be applied to the interest of the other debts, and not, as the motion proposed, to the principal of the army debt. He was fully of opinion that such a motion would defeat itself, that by dividing the interest of the civil from that of the military Creditors provision for the latter would be frustrated.

On the question on Mr. Rutledge's motion the States were, N. H. no, Mass. no, Con^t no, N. J. no, Virg^a no, (Mr. Lee and Mr. Mercer ay) N. C. no, S. Carolina, ay.

On the clause reported by the Com^e of the whole in favor of limiting the impost to 25 years, the States were N. H. ay Mas. ay Con^t div^d ; (Mr. Dyer ay, Mr. Wolcot no) N. Y. no, N. J. no, P^a ay (Mr. Wilson & Mr. Fitzsimmons no) V^a ay (Mr. Bland no) N. Carolina ay, S. Carolina ay, so the question was lost.

On the question whether the appointment of Collectors of the Impost shall be left to the States, the Collectors to be under the controul, & be amenable to Cong^s, there were 7 ays N. Y. & Pen^a being no & N. J. divided.

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THURSDAY, FEB^Y 20, 1783

The motion for limiting the impost to 25 years having been yesterday lost, and some of the gentlemen who were in the

negative desponding of an indefinite grant of it from the States, the motion was reconsidered.

Mr. Wolcot & Mr. Hamilton repeat the inadequacy of a definite term. Mr. Ramsay & Mr. Williamson repeat the improbability of an indefinite term being acceded to by the States, & the expediency of preferring a limited impost to a failure of it altogether.

Mr. Mercer was against the impost altogether but would confine his opposition within Congress: He was in favor of the limitation as an alleviation of the evil.

Mr. Fitzsimmons animadverted on Mr. Mercer's insinuation yesterday touching the loan-office Creditors; & the policy of dividing them from the military Creditors, reprobated every measure which contravened the principles of justice & public faith; and asked whether it were likely that Mas: & P$^{a}$, to whose Citizens half the loan office debt was owing would concur with Virg$^{a}$, whose Citizens had lent but little more than three hundred thousand dollars, in any plan that did not provide for that in common with other debts of the U. S. He was against a limitation to 25 years.

Mr. Lee wished to know whether by Loan office Creditors were meant the original subscribers or the present holders of the certificates, as the force of their demands may be affected by this consideration.

Mr. Fitzsimmons saw the scope of the question, and said that if another scale of depreciation was seriously in view he wished it to come out, that every one might know the course to be taken.

Mr. Ghoram followed the Sentiments of the Gentleman who last spoke, expressed his astonishment that a Gentleman (Mr. Lee) who had enjoyed such opportunities of observing the nature of public credit, should advance such doctrines as were fatal to it. He said it was time that this point s$^{d}$ be explained, that if the former scale for the loan office certificates was to be revised and reduced as one member from Virg$^{a}$ (Mr. Mercer) contended, or a further scale to be made out for subsequent depreciation of Certificates, as seemed to be the idea of the other member, (Mr. Lee,) the restoration of public credit was not only

visionary but the concurrence of the States in any arrangem^ts^ whatever was not to be expected. He was in favor of the limitation as necessary to overcome the objections of the States.

Mr. Mercer professed his attachment to the principles of justice but declared that he thought the scale by which the loans had been valued unjust to the public & that it ought to be revised & reduced.

On the question for the period of 25 years it was decided in the affirmative seven States being in favor of it; N. Jersey & N. York only being no.

Mr. Mercer called the attention of Congress to the case of the goods seized under a law of Pen^a^, on which the Com^e^ had not yet reported, and wished that Cong^s^ would come to some resolution declaratory of their rights & which would lead to an effectual interposition on the part of the Legislature of Pen^a^. After much conversation on the subject in which the members were somewhat divided as to the degree of peremptoriness with which the State of P^a^ should be called on, the Resolution on the Journal, was finally adopted; having been drawn up by the Sec^y^, & put into the hands of a member.

The Resolution[1] passed without any dissent.[2]

[The evening of this day was spent at Mr. Fitzsimmons' by Mr.

[1] "*Resolved*, That it does not appear to Congress that any abuse has been made of the passport granted by the commander in chief, for the protection of clothing and other necessaries sent from New York in the ship *Amazon*, for the use of the British and German prisoners of war.

"*Resolved*, That the goods imported in the said ship *Amazon*, and contained in the returns laid before Congress by the assistant secretary at war, are fully covered and protected by the said passport, and ought to be sent with all expedition, and without any let or hindrance, to the prisoners for whose use they were designed."—*Journals of Congress*, iv., 165.

The Legislature of Pennsylvania in reply to this declared the State law under which the seizures had been made unconstitutional and void.

[2] The result proved that mildness was the soundest policy. The Legislature in consequence having declared the law under which the goods were seized to be void as contradictory to the federal Constitution. Some of the members in Conversation s^d^ that if Congress had declared the law to be void, the displeasure of the Legislature might possibly have produced a different issue. [Note in MS.]

Ghoram, Mr. Hamilton, Mr. Peters, Mr. Carrol, & Mr. Madison. The conversation turned on the subject of revenue under the consideration of Congress, and on the situation of the army. The conversation on the first subject ended in a general concurrence (Mr. Hamilton excepted) in the impossibility of adding to the impost on trade any taxes that w^d^ operate equally throughout the States, or be adopted by them. On the second subject Mr. Hamilton & Mr. Peters who had the best knowledge of the temper, transactions & views of the army, informed the company that it was certain that the army had secretly determined not to lay down their arms until due provision & a satisfactory prospect should be afforded on the subject of their pay; that there was reason to expect that a public declaration to this effect would soon be made; that plans had been agitated if not formed for subsisting themselves after such declaration; that as a proof of their earnestness on this subject the Comander was already become extremely unpopular among almost all ranks from his known dislike to every unlawful proceeding, that this unpopularity was daily increasing & industriously promoted by many leading characters; that his choice of unfit & indiscreet persons into his family was the pretext and with some the real motive; but the substantial one a desire to displace him from the respect & confidence of the army in order to substitute Gen^l^ [erased & illegible] as the conductor of their efforts to obtain justice. Mr. Hamilton said that he knew Gen^l^ Washington intimately and perfectly, that his extreme reserve, mixed sometimes with a degree of asperity of temper, both of which were said to have increased of late, had contributed to the decline of his popularity; but that his virtue his patriotism & his firmness would it might be depended upon never yield to any dishonorable or disloyal plans into which he might be called that he would sooner suffer himself to be cut to pieces; that he, (Mr. Hamilton) knowing this to be his true character wished him to be the conductor of the army in their plans for redress, in order that they might be moderated & directed to proper objects, & exclude some other leader who might foment and misguide their councils; that with this view he had taken the liberty to write to the Gen^l^ on this subject and to recommend such a policy to him.]

FRIDAY, FEB.Y 21.

Mr. Mercer made some remarks tending to a re-consideration of y.e act declaring general funds to be necessary, which revived the discussion of that subject.

Mr. Madison said that he had observed throughout the proceedings of Congress relative to the establishment of such funds that the power delegated to Congress by the Confederation had been very differently construed by different members & that this difference of construction had materially affected their reasonings & opinions on the several propositions which had been made; that in particular it had been represented by sundry members that Congress was merely an Executive body; and therefore that it was inconsistent with the principles of liberty & the spirit of the Constitution, to submit to them a permanent revenue which w.d be placing the purse & the sword in the same hands; that he wished the true doctrine of the Confederation to be ascertained as it might perhaps remove some embarrassments; and towards that end would offer his ideas on the subject.

He said, that he did not conceive in the first place that the opinion was sound that the power of Congress in cases of revenue was in no respect Legislative, but merely Executive; and, in the second place that admitting the power to be Executive a permanent revenue collected & dispensed by them in the discharge of the debts to w.ch it s.d be appropriated would be inconsistent with the nature of an Executive body, or dangerous to the liberties of the Republic.

As to the first opinion he observed that by the Articles of Confederation, Cong.s had clearly & expressly the right to fix the quantum of revenue necessary for the public exigencies, & to require the same from the States respectively in proportion to the value of their land; that the requisitions thus made were a law to the States, as much as the Acts of the latter for complying with them were a law to their individual members; that the federal constitution was as sacred and obligatory as the internal constitutions of the several States; and that nothing could justify the States in disobeying acts warranted by it, but some previous abuse and infraction on the part of Cong.s; that as a proof that

the power of fixing the quantum & making requisitions of money, was considered as a legislative power over the purse, he would appeal to the proposition made by the British Minister of giving this power to the B. Parliam$^{t}$, & leaving to the American Assemblies the privilege of complying in their own modes, & to the reasonings of Congress & the several States on that proposition. He observed further that by the articles of Confederation was delegated to Cong$^{s}$ a right to borrow money indefinitely, and emit bills of Credit which was a species of borrowing, for repayment & redemption of which the faith of the States was pledged & their legislatures constitutionally bound. He asked whether these powers were reconcileable with the idea that Congress was a body merely Executive? He asked what would be thought in G. B., from whose Constitution our Political reasonings were so much drawn, of an attempt to prove that a power of making requisitions of money on y$^{e}$ Parliament & of borrowing money for discharge of which the Parl$^{t}$ s$^{d}$ be bound, might be annexed to the Crown without changing its quality of an Executive branch, and that the leaving to the Parliam$^{t}$ the mode only of complying with the requisitions of the Crown would be leaving to it its supreme & exclusive power of Legislation?

As to the second point he referred again to the British Constitution & the mode in which provision was made for the public debts, observing that although the Executive had no authority to contract a debt, yet that when a debt had been authorized or admitted by the Parliament a permanent & irrevocable revenue was granted by the Legislature, to be collected & dispensed by the Executive; and that this practice had never been deemed a subversion of the Constitution, or a dangerous association of a power over the purse with the power of the Sword.

If these observations were just as he conceived them to be, the establishment of a permanent revenue not by any assumed authority of Congress, but by the authority of the States at the recommendation of Cong$^{s}$, to be collected & applied by the latter to the discharge of the public debts, could not be deemed inconsistent with the spirit of the federal Constitution, or subversive of the principles of liberty; and that all objections drawn from such a supposition ought to be withdrawn. Whether other objections of

sufficient weight might not lie ag$^{st}$ such an establish$^{t}$, was another question. For his part although for various reasons[1] he had wished for such a plan as most eligible, he had never been sanguine that it was practicable & the discussions which had taken place had finally satisfied him that it would be necessary to limit the call for a general revenue to duties on commerce & to call for the deficiency in the most permanent way that could be reconciled with a revenue established within each State separately & appropriated to the Common Treasury. He said the rule which he had laid down to himself in this business was to concur in every arrangem$^{t}$ that s$^{d}$ appear necessary for an honorable & just fulfilment of the public engagements; & in no measure tending to augment the power of Congress which s$^{d}$ appear to be unnecessary; and particularly disclaimed the idea of perpetuating a public debt.

Mr. Lee, in answer to Mr. Madison, said the doctrine maintained by him was pregnant with dangerous consequences to the liberties of the confederated States; that, notwithstanding the specious arguments that had been employed it was an established truth that the purse ought not to be put into the same hands with the Sword; that like arguments had been used in favor of ship money

[1] Among other reasons privately weighing with him, he had observed that many of the most respectable people of America supposed the preservation of the Confederacy essential to secure the blessings of the revolution; and permanent funds for discharging debts essential to the preservation of Union. A disappointment to this class w$^{d}$ certainly abate their ardor & in a critical emergency, might incline them to prefer some political connection with G. B., as a necessary cure for our internal instability. Again Without permanent & general funds he did not conceive that the danger of convulsions from the army could be effectually obviated. Lastly he did not think that any thing w$^{d}$ be so likely to prevent disputes among the States with the calamities consequent on them. The States were jealous of each other, each supposing itself to be on the whole a creditor to the others. The Eastern States in particular thought themselves so with regard to the S. States. (See Mr. Ghoram, in the debates of this day.) If general funds were not introduced it was not likely the balances w$^{d}$ ever be discharged, even if they s$^{d}$ be liquidated. The consequence w$^{d}$ be a rupture of the confederacy. The E. States would at sea be powerful & rapacious; the Southern, opulent & weak. This w$^{d}$ be a temptation; the demands on the S. St. would be an occasion; reprisals w$^{d}$ be instituted; Foreign aid would be called in by first the weaker then the stronger side, & finally both be made subservient to the wars & politics of Europe. [Note in MS.]

in the reign of Charles I it being then represented as essential to the support of the Gov$^{t}$, that the Executive should be assured of the means of fulfilling its engagements for the public service. He said it had been urged by several in behalf of such an establishment for public credit that without it Congress was nothing more than a rope of sand. On this head he would be explicit ; he had rather see Congress a rope of sand than a rod of Iron. He urged finally as a reason why some States would not & ought not to concur in granting to Congress a permanent revenue, that some States as Virg$^{a}$., would receive back a small part by paym$^{t}$ from the U. S. to its Citizens, whilst others as Pen$^{a}$., w$^{d}$ receive a vast surplus ; & consequently by draining the former of its wealth.

Mr. Mercer said if he conceived the federal compact to be such as it had been represented he would immediately withdraw from Congress & do every thing in his power to destroy its existence ; that if Cong$^{s}$ had a right to borrow money as they pleased and to make requisitions on the States that w$^{d}$ be binding on them, the liberties of the States were ideal ; that requisitions ought to be consonant to the Spirit of liberty ; that they should go frequently & accompanied with full information, that the States must be left to judge of the nature of them, of their abilities to comply with them & to regulate their compliance accordingly ; he laid great stress on the omission of Cong$^{s}$ to transmit half yearly to the States an acc$^{t}$ of the monies borrowed by them &c. and even insinuated that this omission had absolved the States in some degree from the engagements. He repeated his remarks on the injustice of the rule by which loan office Certificates had been settled & his opinion that some defalcations would be necessary.

Mr. Holten was opposed to all permanent funds, and to every arrangement not within the limits of the Confederation.

Mr. Hamilton enlarged on the general utility of permanent funds to the federal interests of this Country, & pointed out the difference between the nature of the Constitution of the British Executive & that of the U. S. in answer to Mr. Lee's reasoning from the case of Ship money.

Mr. Ghoram adverted with some warmth to the doctrines advanced by Mr. Lee & Mercer, concerning the loan office Creditors. He said the Union could never be maintained on any other

ground than that of Justice ; that some States had suffered greatly from the deficiencies of others already ; that if Justice was not to be obtained through the federal system & this system was to fail as would necessarily follow, it was time this should be known that some of the States might be forming other confederacies adequate to the purposes of their safety.

This debate was succeeded by a discharge of the Committee from the business of devising the means requisite for restoring Public credit, &c &c. and the business referred to a Com^e, consisting of Mr. Ghoram, Mr. Hamilton, Mr. Madison, Mr. Fitzsimmons & Mr. Rutledge.[1]

[1] "Congress are still engaged on the subject of providing adequate revenues for the public debts, particularly that due to the army. The recommendation of the Impost will be renewed with perhaps some little variation, to which will be superadded probably a duty on a few enumerated articles. *Mr. Mercer altho' he* continues to *be adverse to* the *measure declares now that he will not carry his opposition out of Congress.* Whether any other general revenues will be recommended is very uncertain. A poll tax seems to be the only one sufficiently simple & equal for the purpose, and besides other objections to which even that is liable, the Constitution of Maryland which interdicts such a tax is an insuperable bar. The plan talked of by some for supplying the deficiency is to call on the States to provide each its proportion of a permanent revenue within itself, and to appropriate it to the continental debt. The objections against this plan are that as the execution of it will depend on a unanimous & continued punctuality in the 13 States, it is a precarious basis for public credit, that this precariousness will be increased by mutual jealousies among the States that others may be sparing themselves exertions which they are submitting to ; and that these jealousies will be still more increased by the mutual opinion which prevails that they are comparatively in advance to the U. States ; an opinion which cannot be corrected without closing the accounts between all of them & the U. States ; pre-requisites to which are a valuation of the land, and a final discrimination of such parts of the separate expenditures of the States as ought to be transferred to the common mass, from such parts as ought in justice to fall on the particular States themselves. Some States also will contend and it would seem neither ag^st the principles of justice nor the spirit of the Confederation, for a retrospective abatement of their share of the past debt according to their respective disabilities from year to year throughout the war. What will be the end of this complication of embarrassments time only can disclose. But a greater embarrassment than any is still behind. The *discontents and designs of* the *army are every day taking a more solemn form.* It is *now whispered* that *they have not only resolved not to lay down their arms till justice shall be done them but* that *to prevent surprise a public declaration will be*

No Congress till

TUESDAY, FEBRUARY 25.

In favor of the motion of Mr. Gilman (see the Journal of this date) to refer the officers of the army for their *half-pay* to their respective States it was urged that this plan alone would secure to

*made to that effect.* It is *added* and *I fear with too much* certainty, *that the influence of General Washington* is *rapidly decreasing in the army insomuch that* it is *even in contemplation to substitute some less scrupulous guardian of their interests.*

"There are a variety of rumors concerning peace but none of them of sufficient authority to be particularized. The speech of the King of G. B. to his parliament, and the letter to the Lord Mayor of London from Secy Townsend as it is stated, are the only respectable evidence yet recd There are also rumors on the adverse side which have still less the complexion of authenticity.

"A quantity of clothing on its passage through this State to the British prisoners of war under a passport of Genl Washington was lately seized and condemned under a law of this State agst the importation of British goods. After several fruitless experiments to prevail on the Seizors to relinquish their appeal to the law, the Legislature have I am told cut the business short by declaring the law as far as it interfered with the authority of the passport to be unconstitutional & void ab initio.

"You will suffer me to renew my exhortations to an exchange of your office under the State for a seat in the Legislature. It depends much in my opinion on the measures which may be pursued by Congress & the several States within the ensuing period of 6 months whether prosperity & tranquillity, or *confusion and disunion* are to be the fruits of the Revolution. The seeds of the latter are so thickly sown, that nothing but the most enlightened and liberal policy will be able to stifle them. The *Eastern States*, particularly *Massachusetts conceive* that *compared with* the *Southern*, they are greatly in *advance in* the *general account.* A respectable *Delegate from Massachusetts*, a few days ago, being a little *chafed* by some *expressions* of *Messrs. Lee & Mercer* unfavorable *to loan-office creditors* said that if *justice* was not to be *obtained* thro' *general* confederacy, *the sooner* it *was known the better*, that some *States* might be *forming other confederacies adequate to the purpose* adding that *some had suffered* immensely *from the want of a* proportional compliance with demands for men & money *by others.* However erroneous these ideas may be, do they not *merit serious attention*? Unless some amicable & adequate arrangements be speedily taken for adjusting all the subsisting accounts, and discharging the public engagements, *a dissolution of the Union* will be *inevitable.* Will not, in that event, the Southern States *which at sea* will be *opulent &* weak, be an *easy prey to the Eastern*, which *will be powerful & rapacious? and* particularly if supposed *claims of justice* are *on the side of the latter* will there not be a *ready pretext for reprisals?* The consequence of such a situation would probably

the officers any advantage from that engagement ;[1] since Congress had no independent fund out of which it could be fulfilled, and the States of Con^t & R. I., in particular would not comply with any recommendation of Cong nor even requisition, for that purpose. It was also said that it would be satisfactory to the officers ; and that it would apportion on the States that part of the public burden with sufficient equality. Mr. Dyer said that the original promise of Congress on that subject was considered by some of the States as a fetch upon them, and not within the spirit of the authority delegated to Congress. Mr. Wolcot said the States w^d give Cong^s nothing whatever unless they were gratified in this particular. Mr. Collins said R. I. had expressly instructed her delegates to oppose every measure tending to an execution of the promise out of monies under the disposition of Congress.

On the other side it was urged that the half pay was a debt as solemnly contracted as any other debt ; and was, consequently, as binding under the 12^th article of the Confederation on the States, & that they could not refuse a requisition made for that purpose ; that it would be improper to countenance a spirit of that sort by yielding to it that such concessions on the part of Cong^s w^d produce compliances on the part of the States, in other instances, clogged with favorite conditions, that a reference of the officers to the particular States to whose lines they belong would not be

be that *alliances* would be *sought* first *by the weaker* & *then by the stronger party* & this *country* be *made subject to the wars & politics of Europe*."—Madison to Edmund Randolph, February 25, 1783. (Italics for cypher.)

[1] "Either by giving them security for the payment of the same as it may become due, or by commutation for such sum in gross, as may be mutually agreed on by each state, and the officers to them respectively belonging ; that each and every state, which shall make compensation to their officers, agreeably to the foregoing resolution, shall be exonerated and fully and finally discharged from their respective proportions of all taxes and all other payments of monies whatsoever, on account of half-pay to the officers belonging to the United States or any of them ; provided always that nothing in this resolution shall extend to discharge any state from paying their just proportion of the half-pay which may be due to such officers as have not heretofore or do not now belong to the line of any particular state, or to the officers belonging to any particular state, which may by the events of the war be rendered unable to make such compensation."—*Journals of Congress*, iv., 166.

satisfactory to the officers of those States who objected to half pay, and would increase the present irritation of the army; that to do it without their unanimous consent would be a breach of the contract by which the U. S. collectively were bound to them; and above all that the proposed plan, which discharged any particular State which should settle with its officers on this subject, altho' other States might reject the plan, from its proportion of that part of the public burden, was a direct and palpable departure from the law of the Confederation. According to this instrument the whole public burden of debt must be apportioned according to a valuation of land, nor c^d^ any thing but a unanimous concurrence of the States dispense with this law. According to the plan proposed so much of the public burden as the ½ pay s^d^ amount to, was to be apportioned according to the number of officers belonging to each line; the plan to take effect as to all those States which should adopt it, without waiting for the unanimous adoption of the States; and that if Congress had authority to make the number of officers the rule of apportioning one part of the Public debt on the States, they might extend the rule to any other part or to the whole, or might substitute any other arbitrary rule which they should think fit. The motion of Mr. Gilman was negatived. See the ays & noes on the Journal.[1]

WEDNESDAY, FEB^Y^ 26.

Mr. Lee observed to Congress that it appeared from the Newspapers of the day that sundry enormities had been committed by the refugees within the State of Delaware, as it was known that like enormities had been committed on the Shores of the Chesapeak, notwithstanding the pacific professions of the Enemy; that it was probable howêr that if complaint were to be made to the British Commander at N. York the practice would be restrained. He accordingly moved that a Committee might be appointed to take into consideration the means of restraining such practices.

[1] Against the motion were New York, New Jersey, Maryland, Virginia; North Carolina and South Carolina; in favor of it New Hampshire and Connecticut. Massachusetts and Rhode Island each voted in favor but by one delegate only. New Jersey was divided.—*Journals of Congress*, iv., 166, 167.

The motion was 2$^{ded}$ by Mr. Peters. By Mr. Fitzsimmons the motion was viewed as tending to a request of favors from S$^{r}$ Guy Carleton. It was apprehended by others that, as Gen$^{l}$ Washington & the commanders of separate armies had been explicitly informed of the sense of Congress on this point, any fresh measures thereon might appear to be a censure on them; and that Congress c$^{d}$ not ground any measure on the case in question, having no official information relative to it. The motion of Mr. Lee was negatived. But it appearing from the vote to be the desire of many members that some step might be taken by Congress, the motion of Mr. Madison & Mr. Mercer as it stands on the Journal was proposed and agreed to as free from all objections.[1]

A motion was made by Mr. Hamilton to give a brevet commiõn. to Maj$^{r}$ Burnet, aid to Gen$^{l}$ Greene & messenger of the evacuation of Charleston, of L Colonel; there being six ayes only the motion was lost. N. H., no, Mr. Lee & Mercer no.

The Committee consisting of Mr. Lee &c. to whom had been referred the motion of Mr. Hamilton recommending to the States to authorize Congress to make abatements in the retrospective apportionment by a valuation of land in favor of States whose ability from year to year had been most impaired by the war; reported that it was inexpedient to agree to such motion because one State (Virg$^{a}$) having disagreed to such a measure, on a former recoõmendation to Congress, it was not probable that another recommendation would produce any effect; and because the difficulties of making such abatements were greater than the advantages expected from them.

Mr. Lee argued in favor of the report & the reasons on which it was grounded. The Eastern delegations were for leaving the matter open for future determination when an apportionment should be in question.

Mr. Madison said he thought that the principle of the motion was conformable to justice & within the spirit of the Confederation;

[1] It recommended to the executives of the several States to inform the commander-in-chief or "commander of a separate army" whenever outrages on person or property were committed by persons in the service of the enemy, in order that retaliatory measures might be taken.—*Journals of Congress*, iv., 167.

according to which apportionm$^{ts}$ ought to have been made from time to time throughout the war according to the existing wealth of each State. But that it would be improper to take up this case separately from other claims of equity which would be put in by other States; that the most likely mode of obtaining the concurrence of the States in any plan w$^{d}$ be to comprehend in it the equitable interests of all of them; a comprehensive plan of that sort would be the only one that would cut off all sources of future controversy among the States. That as soon as the plan of revenue s$^{d}$ be prepared for recomẽndation to the States it would be proper for Cong$^{s}$ to take into consideration & combine with it every object [1] which might facilitate its progress, & for a complete

[1] He had in view the follow$^{g}$ objects: 1. The abatements proposed by Mr. Hamilton. 2. A transfer into the common mass of expenses of all the separate expenses incurred by the States in their particular defence. 3. An acquisition to the U. States of the vacant territory. The plan thus extended would affect the interest of the States as follows, viz. N. Hampshire would approve the establishment of a General revenue, as tending to support the confederacy, to remove causes of future contention, and to secure her trade against separate taxation from the States thro' which it is carried on. She would also approve of a share in the vacant territory. Having never been much invaded by the enemy her interests would be opposed to the abatements, & throwing all the separate expenditures into the common mass. The discharge of the public debts from the common treasury would not be required by her interest the loans of her citizens being under her proportion. See the statement of them.

Massachusetts, is deeply interested in the discharge of the public debts. The expedition to Penobscot alone interests her, she supposes, in making a common mass of expenses; her interest is opposed to abatements; the other objects w$^{d}$ not peculiarly affect her.

Rhode Island, as a weak State is interested in a General revenue as tending to support the Confederacy and prevent future contentions, but against it as tending to deprive her of the advantage afforded by her situation of taxing the commerce of the contiguous States. As tending to discharge with certainty the public debts, her proportion of loans interest her rather against it. Having been the seat of war for a considerable time, she might not perhaps be opposed to abatements on that account. The exertions for her defence having been *previously* sanctioned, it is presumed in most instances, she would be opposed to making a common mass of expenses. In the acquisition of vacant territory she is deeply and anxiously interested.

Connecticut is interested in a general revenue as tending to protect her commerce from separate taxation from N. York & Rhode Island; and somewhat

provision for the tranquillity of the U. States. The question on Mr. Hamilton's motion was postponed.

The letter from Mr. Morris requesting that the injunction of secrecy might be withdrawn from his preceding letter signifying to Congress his purpose of resigning, was committed to.

THURSDAY, FEBRUARY 27TH.

On the report of the Com^e on Mr. Morris's letter the injunction of secrecy was taken off without dissent or observation.

The attention of Congress was recalled to the subject of half

as providing for loan office creditors. Her interest is opposed to abatements, and to a common mass of expenses. Since the condemnation of her title to her Western Claims, she may perhaps consider herself as interested in the acquisition of the vacant lands. In other respects, she w^d not be peculiarly affected.

N. York is exceedingly attached to a general revenue as tending to support the confederacy and prevent future contests among the States. Although her Citizens are not lenders beyond the proportion of the State, yet individuals of great weight are deeply interested in provision for public debts. In abatements N. York is also deeply interested. In mak^g a common mass also interested, and since the acceptance of her cession, interested in those of other States.

N. Jersey is interested as a smaller State, in a General revenue as tend^g to support the confederacy, and to prevent future contests and to guard her commerce ag^st the separate taxation of Pennsylvania and N. Y. The loans of her citizens are not materially disproportionate. Although this State has been much the theatre of the war, she w^ld not perhaps be interested in abatements. Having had a previous sanction for particular expenditures her interest w^d be opposed to a common mass. In the vacant territory, she is deeply and anxiously interested.

Penn^a is deeply interested in a general revenue, the loans of her Citizens amounting to more than $\frac{1}{3}$ of that branch of the public debt. As far as a general impost on trade would restrain her from taxing the trade of N. Jersey, it would be against her interest. She is interested against abatements ; and against a common mass, her expenditures having been always previously sanctioned. In the vacant territory, she is also interested.

Delaware is interested by her weakness in a general revenue as tending to support the confederacy & future tranquillity of the States ; but not materially, by the credits of her Citizens. Her interest is opposed to abatements & to a common mass. To the vacant territory she is firmly attached.

Maryland. Having never been the Seat of war & her Citizens being creditors below her proportion, her interest lies ag^st a general revenue, otherwise than

pay by Messrs. Dyer & Wolcot, in order to introduce a reconsideration of the mode of referring it separately to the States to provide for their own lines.

Mr. Mercer favored the reconsideration, representing the commutation proposed, as tending in common with the funding of other debts, to establish & perpetuate a monied interest in the U. S.; that this monied interest would gain the ascendance of the landed interest, would resort to places of luxury & splendor, and, by their example & influence, become dangerous to our republican constitutions. He said however that the variances of opinion & indecision of Congress were alarming & required that something should be done; that it w^d^ be better to new-model the Confederation, or attempt any thing, rather than to do nothing.

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as she is interested in common with others in the support of the confederacy & tranquillity of the U. S.; but against abatements, and against a common mass. The vacant lands are a favorite object to her.

Virg^a^, in common with the Southern States as likely to enjoy an opulent and defenceless trade is interested in a general revenue, as tending to secure to her the protection of the confederacy ag^st^ the maritime superiority of the E. States; but ag^st^ it as tending to discharge loan office debts and to deprive her of the occasion of taxing the comerce [of] N. Carolina. She is interested in abatements, and essentially so in common mass, not only her eccentric expenditures being enormous, but many of her necessary ones hav^g^ rec^d^ no previous or subsequent sanction. Her cession of territory would be considered as a sacrifice.

N. Carolina is interested in a general revenue as tending to ensure the protection of y^e^ Confederacy ag^st^ the maritime superiority of E. States and to guard her trade from separate taxation by Virginia and S. Carolina. The loans of her Citizens are inconsiderable. In abatements and in a common mass she is essentially interested. In the article of territory, she would have to make a sacrifice.

South Carolina is interested, as a weak & exposed State in a general revenue as tending to secure to her the protection of the confederacy ag^st^ Enemies of *every* kind, and as providing for the public Creditors, her Citizens being not only loan office Creditors beyond her proportion, but having immense unliquidated demands ag^st^ the U. States. As restraining her power over the commerce of N. Carolina, a general revenue is opposed to her interests. She is also materially interested in abatements, and in a common mass. In the article of territory her sacrifice w^d^ be inconsiderable.

Georgia as a feeble an[d] opulent & frontier State is peculiarly interested in a general revenue, as tending to support the confederacy. She is also interested

Mr. Madison reminded Cong$^{s}$, that the commutation proposed was introduced as a compromise with those to whom the idea of pensions was obnoxious & observed that those whose scruples had been relieved by it had rendered it no less obnoxious than pensions by stigmatizing it with the name of a perpetuity. He said the public situation was truly deplorable. If the payment of the capital of the public debts was suggested, it was said & truly said to be impossible ; if funding them & paying the interest was proposed, it was exclaimed ag$^{st}$ as establishing a dangerous moneied interest, as corrupting the public manners, as administering poison to our republican constitutions. He said he wished the revenue to be established to be such as would extinguish the capital as well as pay the interest within the shortest possible period ; and was as much opposed to perpetuating the public burdens as any one. But that the discharge of them in some form or other was essential, and that the consequences predicted therefrom could

in it somewhat by the creditors of her Citizens. In abatements she is also interested, and in a common mass essentially so. In the article of territory She would make an important sacrifice.

To make this plan still more complete for the purpose of removing all present complaints, and all occasions of future contests, it may be proper to include in it a recommendation to the States to rescind the rule of apportioning pecuniary burdens according to the value of the land, & to substitute that of numbers, reckoning two slaves as equal to one freeman.

STATE OF THE LOAN OFFICE DEBT.

| | Specie Dollars. | | Specie Dollars. |
|---|---|---|---|
| N. H. . . . . | 336,579 58 7 | Delaware . . . | 65,820 13 7 |
| Mass. . . . . | 2,361,866 66 5 | Maryland . . . | 410,218 30 |
| R. Island . . . | 699,725 37 4 | Virg$^{a}$ . . . . | 313,741 82 3 |
| Con$^{t}$ . . . . | 1,270,115 30 0 | N. Carolina . . . | 113,341 11 1 |
| N. York . . . . | 949,729 57 5 | S. Carolina . . . | 90,442 10 1 |
| N. Jersey . . . | 658,883 69 | Total . . . . | 11,437,410 80 |
| Pen$^{a}$ . . . . . | 3,948,904 14 4 | | |

This it is to be observed is only the list of loan office debts. The unliquidated debts and liquidated debts of other denominations due to individuals will vary inexpressibly the relative quantum of credits of the several States. It is to be further observed that this only shews the original credits transfers having being constant ; heretofore they have flowed into P$^{a}$. Other States may hereafter have an influx. [Note in MS.]

not be more heterogeneous to our republican character & constitutions, than a violation of the maxims of good faith and common honesty. It was agreed that the report for commuting ½ pay should lie on the table till to-morrow, in order to give an opportunity to the Delegates of Connecticut to make any proposition relative thereto which they should judge proper.

The report of the Comm^e^, consisting of Mr. Ghoram Mr. Hamilton Mr. Madison Mr. Rutledge & Mr. Fitzsimmons, was taken up. It was proposed that in addition to the impost of 5 Per C^t^ ad valorem the States be requested to enable Cong^s^ to collect a duty of ⅛ of a dollar per bushel on salt imported; of $\frac{6}{90}$ per Gallon on all wines do. and of $\frac{3}{90}$ per Gallon on all rum & brandy do.

On the first article it was observed on the part of the East: States, that this would press peculiarly hard on them on acc^t^ of the salt consumed in the fisheries; and that it would besides be injurious to the national interest by adding to the cost of fish. And a drawback was suggested.

On the other side it was observed that the warmer climate & more dispersed settlements of the Southern States, required a greater consumption of salt for their provisions, that salt might & would be conveyed to the fisheries without previous importation, that the effect of the duty was too inconsiderable to be felt in the cost of fish & that the rum in the N. E. States being in a great degree manufactured at home, they would have greater advantage in this respect, than the other States could have in the article of Salt, that a drawback could not be executed in our complicated govern^t^ with ease or certainty.

Mr. Mercer on this occasion declared that altho' he thought those who opposed a general revenue right in their principles, yet as they appeared to have formed no plan adequate to the public exigencies, and as he was convinced of the necessity of doing something, he should depart from his first resolution and strike in with those who were pursuing the plan of a general revenue.

Mr. Holten said he had come lately into Congress with a predetermination against any measures for discharging the public engagements other than those pointed out in the Confederation, & that he had hitherto acted accordingly. But that he saw now so clearly the necessity of making provision for that object, and

the inadequacy of the Confederation thereto, that he should concur in recommending to the States a plan of a general revenue.

A question being proposed on the duties on salt there were 9 ays, N. H. alone being no, R. I. not present.

It was urged by some that the duty on wine should be augmented; but it appeared on discussion & some calculations, that the temptation to smuggling w.d be rendered too strong, & the revenue thereby diminished. Mr. Bland proposed that, instead of a duty on the Gallon an ad-valorem duty should be laid on wine, and this idea after some loose discussion, was agreed to, few of the members interesting themselves therein, and some of them having previously retired from Congress.

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FRIDAY, FEBRUARY 28.

A motion was made by Mr. Wolcot and Mr. Dyer to refer the half pay to the States, little differing from the late motion of Mr. Gilman, except that it specified 5 years' whole pay as the proper ground of composition with the Officers of the respective lines. On this proposition the arguments used for and ag.st Mr. Gilman's motion were recapitulated. It was negatived, Con.t alone answering in the affirmative, and no division being called for.

On the question to agree to the report for a commutation of 5 years' whole pay, there being 7 ays only it was considered whether this was an appropriation or a new ascertainment of a sum of money necessary for the public service. Some were of opinion at first that it did not fall under that description, viz of an appropriation. Finally the contrary opinion was deemed almost unanimously safest, as well as the most accurate. Another question was whether 7 or 9 votes were to decide doubts whether 7 or 9 were requisite on any question. Some were of opinion that the Secretary ought to make an entry according to his own judgment and that that entry s.d stand unless altered by a positive instruction from Cong.s. To this it was objected that it w.d make the Sec.y the Sovereign in many cases, since a reversal of his entry w.d be impossible, whatever that entry might be; that particularly he might enter 7 votes to be affirmative on a question where 9

were necessary, and if supported in it by a few States it w^d^ be irrevocable. It was said, by others, that the safest rule w^d^ be to require 9 votes to decide in all cases of doubt whether 9 or 7 were necessary. To this it was objected that one or two States, and in any situation 6 States might by raising doubts, stop seven from acting in any case which they disapproved. Fortunately on the case in question there were 9 States of opinion that nine were requisite, so the difficulty was got over for the present.

On a reconsideration of the question whether the duty on wine should be on the quantity or on the value the mode reported by the Com^e^ was reinstated, and the whole report recom̃itted to be included with the 5 Per C^t^ ad valorem, in an Act of recom̃endation to the States.

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MONDAY MARCH 3D.

The Comm^e^ on revenues, reported in addition to the former articles recommended by them, a duty of $\frac{2}{3}$ of a dollar per 112 l^bs^ on all brown sugar, 1 dollar on all powdered, lumped & clayed sugars, other than loaf sugar, $1\frac{1}{3}$ dollar per 112 l^bs^ on all loaf sugars, $\frac{1}{30}$ of a dollar per lb on all Bohea Teas, and $\frac{1}{15}$ of a dollar on all finer Indian Teas. This report without debate or opposition was recommitted to be incorporated with the general plan.

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TUESDAY MARCH 4. & WEDNESDAY MARCH 5.

The motion of Mr. Hamilton on the Journal, relative to the abatement of the quotas of distressed States [1] was rejected, partly because the principle was disapproved by some, and partly because it was thought improper to be separated from other objects to be recommended to the States. The latter motive produced the motion for postponing which was lost.

[1] "Whereas, in the opinion of Congress, it is essential to those principles of justice and liberality, which ought to govern the intercourse between these States, that in the final adjustment of accounts for the supplies or contributions of the States respectively, toward the common expenses in the course of the war, equitable allowances should be made in favor of those States, parts of which have been at different periods in possession of the enemy; and whereas

The Committee to whom had been referred the letters of resignation of Mr. Morris reported as their opinion that it was not necessary for Cong$^{s}$ immediately to take any steps thereon. They considered the resignation as conditional, and that if it s$^{d}$ eventually take place at the time designated, there was no necessity for immediate provision to be made.

Mr. Bland moved that [1] &c (see Journal of Mar. 5).

This motion produced on these two days lengthy & warm debates, Mr. Lee & Mr. Bland on one side disparaging the Administration of Mr. Morris, and throwing oblique censure on his character. They considered his letter as an insult to Cong$^{s}$, & Mr. Lee declared that the man who had published to all the world such a picture of our national character & finances was unfit to be a Minister of the latter. On the other side Mr. Wilson & Mr. Hamilton went into a copious defence & Panegyric of Mr. Morris, the ruin in which his resignation if it s$^{d}$ take effect w$^{d}$ involve public credit and all the operations dependent on it; and the decency altho' firmness, of his letters. The former observed that the declaration of Mr. Morris, that he w$^{d}$ not be the minister of Injustice c$^{d}$ not be meant to reflect on Cong$^{s}$, because they had declared the funds desired by Mr. Morris to be necessary; and that the friends of the latter could not wish for a more honorable occasion for his retreat from public life, if they did not prefer the public interest to considerations of friendship. Other members were divided as to the propriety of the letters in question. In general however they were thought reprehensible, as in general also a conviction prevailed of the personal merit & public importance of Mr. Morris. All impartial members foresaw the most

the strict application of the rule prescribed by the 8$^{th}$ article of the confederation, as declared by the resolution of the 17$^{th}$ February, would operate greatly to the prejudice of such States, and to the calamities of war, and an undue proportion of the public burden

"*Resolved*, That Congress will, in the application of the said rule, make such abatements in favor of the said States, as from a full consideration of circumstances shall appear to them just and equitable, for the time the said parts of the said States may have been in possession of the enemy."—*Journals of Congress*, iv., 169, 170.

[1] "A committee be appointed to devise the most proper means of arranging the Department of Finance."—*Journals of Congress*, iv., 171.

alarming consequences from his resignation. The prevailing objection to Mr. Bland's motion was that its avowed object & tendency was to re-establish a *board* in place of a single minister of finance. Those who apprehended that ultimately this might be unavoidable, thought it so objectionable that nothing but the last necessity would justify it. The motion of Mr. Bland was lost; and a Comm^e^ appointed generally on the letters of Mr. Morris.[1]

THURSDAY MARCH 6.

The com^e^ on Revenue made a report which was ordered to be printed for each member, and to be taken up on monday next.

FRIDAY MARCH 7.

Printed copies of the Report above-mentioned were delivered to each member, as follows, viz.

(1.) "*Resolved*, that it be recommended to the several States, as indispensably necessary to the restoration of public credit, and the punctual & honorable discharge of the public debts, to vest in the U. S. in Cong^s^ assem^d^ a power to levy for the use of the U. S. a duty of 5 Per C^t^ ad valorem, at the time and place of importation, upon all goods, wares & merchandizes of foreign growth & manufactures, which may be imported into any of the said States, from any foreign port, island or plantation, except arms,

[1] "Provision for the public debt continues the wearisome topic of congressional discussion. *Mercer declared* that although *he deems* the *opponents of a general revenue right in* principle, *yet as they had no plan and* it was *essential that something should be done he should strike in with the other side.*

"A letter from Gen^l^ *Knox* is in Town which I understand, places the *temper and affairs of the army in a* less *alarming view* than some preceding *accounts.*

"The resignation of the Superintend^t^ of finance with his motives are contained in the paper enclosed. It is, as you may well suppose a subject of general and anxious conversation. Its effect on public credit will be fully anticipated by your knowledge of our affairs. Yesterday's mail brought me no letter from you."—Madison to Edmund Randolph, March 4, 1783. (Italics for cypher.) *Mad. MSS.*

ammunition, clothing, and other articles imported on account of the U. States or any of them; and except wool cards, cotton cards, & wire for making them; and also except Salt during the war:

(2.) Also a like duty of 5 Per C$^{t}$ ad valorem, on all prizes & prize goods condemned in the Court of Admiralty of any of these United States as lawful prize:

(3.) Also to levy a duty of $\frac{1}{8}$ of a dollar per bushel on all salt imported as aforesaid after the war; $\frac{1}{15}$ of a dollar per gallon on all wines, $\frac{1}{30}$ of a dollar per gallon on all rum and brandy; $\frac{2}{3}$ of a dollar per 112 lbs on all brown sugars, 1 dollar per 112 lbs on all powdered, lump and clayed sugars other than loaf sugars, $1\frac{1}{3}$d$^{o}$ per 112 lbs on all loaf sugars; $\frac{1}{30}$ of a dollar per pound on all Bohea Tea, and $\frac{1}{15}$ of a dollar per lb on all finer India teas, imported as aforesaid, after ——————— ———, in addition to the five per C$^{t}$ above-mentioned:

(4.) Provided that none of the said duties shall be applied to any other purpose than the discharge of the interest or principal of the debts which shall have been contracted on the faith of the U. S. for supporting the present war, nor be continued for a longer term than 25 years: and provided that the collectors of the said duties shall be appointed by the States within which their offices are to be respectively exercised, but when so appointed, shall be amenable to & removable by the U. S. Cong$^{s}$ ass$^{d}$ alone; and in case any State shall not make such appointment within ——— ———, after notice given for that purpose, the appointment may then be made by the U. S. in Cong$^{s}$ ass$^{d}$

(5.) That it be further recommended to the several States to establish for a like term not exceeding 25 years, and to appropriate to the discharge of the interest & principal of the debts which shall have been contracted on the faith of the U. S., for supporting the present war, substantial and effectual revenues of such a nature as they may respectively judge most convenient, to the amount of ——— ——— ———, and in the proportion following viz.

The said revenues to be collected by persons appointed as aforesaid, but to be carried to the separate credit of the States within

which they shall be collected and be liquidated and adjusted among the States according to the quotas which may from time to time be allotted to them.

(6.) That an annual account of the proceeds and application of the aforementioned revenues shall be made out & transmitted to the several States, distinguishing the proceeds of each of the specified articles, and the amount of the whole revenue received from each State.

(7.) That none of the preceding resolutions shall take effect untill all of them shall be acceded to by every State, after which accession however, they shall be considered as forming a mutual compact among all the States, and shall be irrevocable by any one or more of them without the concurrence of the whole, or a majority, of the United States in Cong$^{s}$ assembled:

(8.) That, as a further means, as well of hastening the extinguishment of the debts, as of establishing the harmony of the U. States, it be recommended to the States which have passed no acts towards complying with the resolutions of Congress of the 6$^{th}$ of Sep$^{r}$ and the 10$^{th}$ of Oct$^{r}$, 1870, relative to territorial cessions, to make the liberal cessions therein recommended, & to the States which may have passed acts complying with the said resolutions in part only, to revise & complete such compliance.

(9.) That, in order to remove all objections against a retrospective application of the constitutional rule of apportioning to the several States the charges & expenses which shall have been supplied for the common defence or general welfare, it be recommended to them to enable Congress to make such equitable exceptions and abatements as the particular circumstances of the States from time to time, during the war, may be found to require:

(10.) That conformably to the liberal principles on which these recommendations are founded, and with a view to a more amicable and complete adjustment of all accounts between the U. S. and individual States, all reasonable expenses which shall have been incurred by the States without the sanction of Cong$^{s}$, in their defence ag$^{st}$ or attacks upon British or Savage enemies, either by sea or by land, and which shall be supported by satisfactory proofs, shall be considered as part of the common charges incident to the present war, and be allowed as such:

(11.) That as a more convenient and certain rule of ascertaining the proportions to be supplied by the States respectively to the common Treasury, the following alteration in the articles of confederation and perpetual union between these States, be and the same is hereby, agreed to in Congress, & the several States are advised to authorize their respective delegates to subscribe and ratify the same, as part of the said instrument of Union, in the words following, to wit.

(12) "So much of the 8th of the Articles of Confederation & perpetual Union between the thirteen States of America as is contained in the words following to wit 'All charges of war &c (to the end of the paragraph)—[and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State granted to, or surveyed for, any person, as such land, and the buildings and improvements thereon, shall be estimated according to such mode as the United States in Congress assembled shall, from time to time, direct and appoint,]'—is hereby revoked and made void, and in place thereof, it is declared and Concluded, the same having been agreed to in a Congress of the United States, that all charges of war, and all other expenses that shall be incurred for the common defence or general welfare and allowed by the U. S. in Congress assembled shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the number of inhabitants of every age, sex & condition, except Indians not paying taxes in each State; which number shall be triennially taken & transmitted to the U. S. in Congs assembled, in such mode as they shall direct and appoint; provided always that in such numeration no persons shall be included who are bound to servitude for life, according to the laws of the State to which they belong, other than such as may be between the ages of [1]—— years."

[1] In the draught as laid before the Comee by ——— ——— the (7) paragraph was placed last of all, so as to render the plan individual. In the (10) paragraph the word "reasonable" before the word "expenses," was not inserted;

MONDAY, MARCH 10.

See the Journal. Much debate passed relative to the proposed commutation of half pay; Some wishing it to take place on condition only that a majority of the whole army should concur others preferring the plan expressed on the journal, and not agreed to.[1]

TUESDAY, MARCH 11.

The Report entered on Friday, the 7 of March was taken into consideration. It had been sent by order of Congs to the Supt of Finance for his remarks which were also on the table. These remarks were in substance: that it wd be better to turn the 5 per ct ad valorem into a Tariff, founded on an enumeration of the several classes of imports, to which ought to be added a few articles of exports; that instead of an apportionment of the residue on the States, other general revenues from a land tax, reduced to ¼ of a dollar Per Hundred Acres, with a house tax regulated by the numbers of windows, and an excise on all Spirituous liquors to be collected at the place of distillery ought

but to the paragraph was added "provided that this allowance shall not be extended to any expenses which shall be declared by nine votes in Congress to be manifestly unreasonable." In other respects the original draught was unaltered, except that a former resolution of Congress in the words of the (6) paragraph was incorporated by the Secy before it went to the press. [Note in MS.]

[1] It was introduced by Carroll, Dyer, and Mifflin and provided "That such officers as are now in service, and continue therein to the end of the war, shall be entitled to receive the sum of five years' full pay in money, or securities on interest at six per cent. per annum, at the option of Congress, instead of the half-pay promised for life by the resolution of the 21st of October, 1780: the said securities to be such as shall be given to the other creditors of the United States; provided that it be at the option of the lines of the respective States, and not of officers individually in those lines, to accept or reject the same: that all officers who have retired from service upon the promise of half-pay for life, shall be entitled to the benefits of the above resolution; provided that those of the line of each State, collectively, agree thereto; that the said commutation shall extend to the corps not belonging to the lines of particular States, the acceptance or refusal to be determined by corps; that all officers entitled to half-pay for life, not included in the above resolution, may collectively agree to accept or refuse the commutation."—*Journals of Congress*, iv., 173.

to be substituted and as well as the duties on trade made co-existent with the public debts; the whole to be collected by persons app$^{d}$ by Cong$^{s}$ alone. And that an alternative ought to be held out to y$^{e}$ States, either to establish these permanent revenues, for the interest or to comply with a constitutional demand of the principal within a very short period.

In order to ascertain the sense of Con$^{s}$ on these ideas it was proposed that the following short questions s$^{d}$ be taken:

1. Shall any taxes to operate generally throughout the States, be recommended by Cong$^{s}$ other than duties on foreign commerce?

2. Shall the 5 Per C. ad valorem be exchanged for a tariff?

3. Shall the alternative be adopted, as proposed by the Superintend$^{t}$ of Finance?

On the 1$^{st}$ question the States were, N. H. no, Mas: no, Con$^{t}$ no, N. J. no, Mary$^{d}$ no, Virg$^{a}$ no, 6 noes & 5 ays.

On the 2$^{d}$ question there were 7 ays.

The 3$^{d}$ question was not put, its impropriety being generally proclaimed.

In consequence of the 2$^{d}$ vote in favor of a tariff, the 3 first paragraphs of the Rep$^{t}$ were recommitted together with the letter from the Superintend$^{t}$ of Finance.

On the fourth Par. on motion of Mr. Dyer, after the word "war," in line 5, was inserted "agreeably to the resolution of the 16 of Dec$^{r}$ last."

A motion was made by Mr. Hamilton and Mr. Wilson to strike out the limitation of 25 years and to make the revenue co-existent with the debts. This question was lost, the States being N. H., no, Mas., no, Cont$^{t}$ div$^{d}$, N. Y., ay, N. J., ay, P$^{a}$, ay, Del., ay, Mary$^{d}$, ay, V$^{a}$, no, N. C., ay, S. C., no.

A motion was made by Mr. Hamilton & Mr. Wilson to strike out the clauses relative to the appointment of Collectors, and to provide that the Collectors s$^{d}$ be inhabitants of the States within which they s$^{d}$ collect should be nominated by Cong$^{s}$, and appointed by the States, and in case such nomination should not be accepted or rejected within —— days it should stand good. On this question there were 5 ayes and 6 noes.[1]

[1] "Another week has passed without affording the least relief from our suspense as to the progress of peace. At New York they are so much in the dark

WEDNESDAY 12, TH. 13, F. 14, S. 15 OF MARCH.

These days were employed in reading the despatches brought on Wednesday morning by Capt. Barney commanding the Washington Packet. They were dated from Dec^r 4 to 24, from the Ministers Plenipo: for peace, with journals of preceding transactions, and were accompanied by the Preliminary articles signed on the 30^th of Nov^r, between the said Ministers & Mr. Oswald the British Minister.

The terms granted to America appeared to Cong^s on the whole extremely liberal.[1] It was observed by several however that the

that their curiosity has recourse to the gleanings of the Philad^a gazettes. The length of the negotiation may be explained, but the delay of all parties to notify its progress is really astonishing. Our last official information is nearly 5 months old & that derived from the royal speech upwards of three months.

"The peremptory style & publication of Mr. M[orris]'s letters have *given offence to many without & to some within Congress. His enemies of both* descriptions, *are industrious in displaying their impropriety.* I wish *they had less handle for* the *purpose.*

"The plan before Congress for the arrangem^t of our affairs is to ask from the States a power to levy for a term not exceeding 25 years the 5 Per C^t impost, with an additional impost on salt, wine, spirituous liquors, sugar & teas; to recommend to them to establish & appropriate perm̃ant revenues for a like term for the deficiency; the proceeds to be carried to their credit; the whole to be collected by persons amenable to Cong^s, but app^d by the States; to complete the territorial cessions; to enable Cong^s to make abatements in favor of suffering States; Cong^s on their part declaring that all reasonable military expenses separately incurred by the States without their sanction either by sea or land shall be part of the common mass; and proposing to the States a substitution of numbers in place of a valuation of land; 3 slaves to be equal to 1 freeman. The fate of this plan in Cong^s is uncertain, & still more so among the States. It makes a decent provision for the public debts & seems to comprehend the most dangerous sources of future contests among ourselves. If the substance of it is rejected, and nothing better introduced in its place, I shall consider it as a melancholy proof that narrow & local views prevail over that liberal policy & those mutual concessions which our future tranquillity & present reputation call for.

"Mr. J. is still here, agitated as you may suppose with the suspense in which he is kept. He is anxious as myself for your going into the Legislature. Let me know your final determination on this point."—Madison to Edmund Randolph, March 11, 1783. (Italics for cypher.) *Mad. MSS.*

[1] "Capt. Barney commanding the American packet boat which has been long expected with official intelligence from our Ministers in Europe arrived here

stipulation obliging Cong[s] to recommend to the States a restitution of confiscated property, altho' it could scarcely be understood that the States would comply, had the appearance of sacrificing the dignity of Cong[s], to the pride of the British King.

The separate & secret manner in which our Ministers had proceeded with respect to France & the confidential manner with respect to the British Ministers affected different members of Cong[s] very differently. Many of the most judicious members thought they had all been in some measure ensnared by the dexterity of the British Minister; and particularly disapproved of the conduct of Mr. Jay in submitting to the Enemy his jealousy of the French without even the knowledge of Dr. Franklin, and of the unguarded manner in which he, Mr. A. & Dr. F., had given in writing sentiments unfriendly to our Ally, and serving as weapons for the insidious policy of the Enemy. The separate Article was most offensive, being considered as obtained by G. B.

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this morning. He brings a supply of money the sum of which I cannot as yet specify & comes under a passport from the King of G. B. The despatches from our Ministers are dated the 5, 14 & 24 of Dec[r]. Those of the 14[th] inclose a copy of the preliminary articles, provisionally signed between the American & British Plenipotentiaries. The tenor of them is that the U. S. shall be acknowledged & treated with as free, sovereign & independ[t]; that our boundaries shall begin at the mouth of the St. Croix, run thence to the ridge dividing the waters of the Atlantic from those of St. Laurence, thence to the head of Con[t] river, thence, down to 45° N. L. thence to Cadaraqui; thence thro' the middle of Lakes Ontario, Erie, Huron, & Superior, to Long Lake to the Lake of the Woods & thence due W. to the Missip[i], thence down the middle of the river to L. 31, thence to Apalachicola, to Flint river, to St. Marys, & down the same to the Atlantic; that the fisheries shall be exercised nearly as formerly; that Congress shall earnestly recommend to the States a restitution of confiscated property, a permission to the refugees to come & remain for 1 year within the States to solicit restitution, and that in the most obnoxious cases restitution may be demanded of purchasers on reimbursing them the price of the property, that debts contracted prior to 1775 shall be mutually paid according to sterling value; that all prisoners shall be mutually set at liberty, troops withdrawn & all records & papers restored; that the navigation of the Mississippi, from the source to the mouth, shall be mutually free for the subjects of G. B. & the Citizens of America, a proposition comprehending the W. I., was offered on the subject of Commerce, but not admitted on the part of G. B.

"In the course of the negotiation G. B. contended for not only the limits

not for the sake of the territory ceded to her, but as a means of disuniting the U. S. & France, as inconsistent with the spirit of the Alliance, and a dishonorable departure from the candor rectitude & plain dealing professed by Cong$^{s}$. The dilemma in w$^{ch}$ Cong$^{s}$ were placed was sorely felt. If they s$^{d}$ communicate to the F. Minister every thing they exposed their own Ministers, destroyed all confidence in them on the part of France & might engage them in dangerous factions ag$^{st}$ Cong$^{s}$, which was the more to be apprehended, as the terms obtained by their management were popular in their nature. If Cong$^{s}$ s$^{d}$ conceal every thing, & the F. Court s$^{d}$ either from the Enemy or otherwise come to the knowledge of it all confidence w$^{d}$ be at an end between the allies; the enemy might be encouraged by it to make fresh experiments, & the public safety as well as the national honor be endangered. Upon the whole it was thought & observed by many that our Ministers particularly Mr. Jay, instead of making allowances for & affording facilities to France in her delicate situation between Spain & the U. S., had joined with the enemy in taking advantage

marked out in the Quebec Act, but all ungranted soil, for a contraction of the fisheries, and for absolute stipulations in favor of the loyalists.

"The despatches of the 14$^{th}$ Speak also of the principal preliminaries between F. & G. B. being settled; but of little progress being made in those between Hol$^{d}$ & Sp$^{n}$, & the latter; & of none between Sp$^{n}$ & the U. S.

"A letter of the 24$^{th}$ of Dec$^{r}$ from Dr. Franklin varies the scene somewhat. It says that uncertainties were arising from the unsettled state of minds in England & incloses a letter from the C$^{t}$ de Vergennes, observing that difficulties had arisen from the very facilities yielded on the part of France; & concluding with these words as well as I can recollect, 'Je ne désespère pas; J'espère plutôt; mais tout est incertain.'

"Franklin's correspondence on this occasion denotes a vigor of intellect, which is astonishing at his age. A letter to the British Minister on the case of the Tories in particular is remarkable for strength of reasoning of sentiment & of expression. He concludes his letter to Cong$^{s}$ with observing that he is now entering on his 78$^{th}$ year, 50 of which have been spent in the public Service and that having lived to see like Simeon of old the salvation of his Country his prayer is that he may be permitted to retire from public life. Mr. Adams has also transmitted his resignation.

"The arrival of this intelligence will probably procure from Cong$^{s}$ some final decision with respect to Mr. Jefferson."—Madison to Edmund Randolph, March 12, 1783. *Mad. MSS.*

of it to increase her perplexity ; & that they had made the safety of their Country depend on the Sincerity of L.d Shelburne, which was suspected by all the world besides, and even by most of themselves. See Mr. L's. letter Dec.r 24th.

The displeasure of the French Court at the neglect of our Ministers to maintain a confidential intercourse & particularly to communicate the preliminary articles before they were signed, was not only signified to the Sec.y of F. A., but to sundry members by the Chev.r de la Luzerne. To the former he shewed a letter from C.t de Vergennes directing him to remonstrate to Cong.s ag.st the conduct of the American Ministers ; which a subsequent letter countermanded alledged that Doc.r F. had given some explanations that had been admitted ; & told Mr. Livingston that the American Ministers had deceived him (de Vergennes) by telling him a few days before the preliminary articles were signed, that the agreement on them was at a distance ; that when he carried the articles signed into Council, the King expressed great indignation, & asked if the Americans served him thus before peace was made, & whilst they were begging for aids, what was to be expected after peace &c. To several Members he mentioned that the King had been surprised & displeased & that he said he did not think he had such allies to deal with. To one of them who asked whether the C.t of F. meant to complain of them to Cong.s, M. Marbois answered that Great Powers never *complained* but that they *felt* & *remembered*. It did not appear from any circumstances that the separate article was known to the Court of F., or to the Chev.r de la Luzerne.

The publication of the preliminary articles excepting the separate article in the Newspaper was not a deliberate act of Cong.s. A hasty question for enjoining secrecy on certain parts of the despatches which included those articles, was lost ; and copies hav.e been taken by members & some of them handed to the Delegates of Pen.a, one of them reached the printer. When the publication appeared Cong.s in general regretted it, not only as tending too much to lull the States, but as leading France into suspicions that Congress favored the premature signature of the articles and were at least willing to remove in the minds of the people the blame of delaying peace from G. B. to France.

MONDAY, MARCH 17.

A letter was rec$^{d}$ from Gen$^{l}$ Washington inclosing two anonymous & inflammatory exhortations to the army to assemble for the purpose of seeking by other means, that justice which their Country shewed no disposition to afford them. The steps taken by the Gen$^{l}$ to avert the gathering storm & his professions of inflexible adherence to his duty to Congress & to his Country, excited the most affectionate sentiments towards him. By private letters from the army & other circumstances there appeared good ground for suspecting that the Civil creditors were intriguing in order to inflame the army into such desperation as w$^{d}$ produce a general provision for the public debts. These papers were committed to Mr. Gilman Mr. Dyer, Mr. Clark Mr. Rutledge & Mr. Mercer. The app$^{t}$ of These Gentlemen was brought about by a few members who wished to saddle with this embarrassment the men who had opposed the measures necessary for satisfying the army viz. the half pay & permanent funds; ag$^{st}$ one or other of which the individuals in question had voted.

This alarming intelligence from the army added to the critical situation to w$^{ch}$ our affairs in Europe were reduced by the variance of our Ministers with our Ally, and to the difficulty of establishing the means of fulfilling the Engagem$^{ts}$ & securing the harmony of the U. S. & to the confusions apprehended from the approaching resignation of the Superint$^{t}$ of Finance, gave peculiar awe & solemnity to the present moment, & oppressed the minds of Cong$^{s}$ with an anxiety & distress which had been scarcely felt in any period of the revolution.[1]

[1] "My letter by Express communicated to you the outlines of the intelligence brought by Capt. Barney from our Ministers in Europe. The tediousness of the Cypher does not permit me now to enter into detail. I can only add that notwithstanding the flattering aspect of the preliminary Articles there are various circumstances which check our confidence in them, as there are some which will *detract from our joy* if they should be *finally established.* To explain this it must suffice to observe that The latest letters from our Ministers express the greatest *jealousy* of G. B. and, secondly that the situation of *France between* the *interfering claims of Spain & the U. S.*, to which may perhaps be added some particular *views of her own* having carried *her into a discountenance of* claims the *suspicions of our ministers* on *that side* gave an opportunity to *British*

TUESDAY MARCH 18.

On the report of the Committee to whom the 3 paragraphs of the Report on revenues (see March the 6 & 7) had been recommitted, the said paragraphs were expunged so as to admit the following amendments which took place without opposition, viz

"*Resolved* That it be recommended &c &c (see 1^vl 1 P).[1]

| | Dol^s |
|---|---|
| Upon all rum of Jamaica proof per Gallon | $\frac{4}{90}$ |
| Upon all other spirituous liquors | $\frac{3}{90}$ |
| Upon Madeira wine | $\frac{12}{90}$ |
| Upon the wines of Lisbon, Oporto, those called Sherry & upon all French wines | $\frac{6}{90}$ |
| Upon the wines called Malaga or Teneriffe | $\frac{5}{90}$ |
| Upon all other wines | $\frac{4}{90}$ |
| Upon common Bohea Tea, Per lb | $\frac{6}{90}$ |

*address to decoy them into a* degree *of confidence* which seems to leave their *own reputations* as well as the *safety of their country at the mercy of Shelburne.* In this *business Jay has taken the lead* & proceeded to *a length of which you* can *form little idea. Adams has followed with* cordiality. *Franklin has been dragged into it. Laurens* in his *separate letter* professes a *violent suspicion of* G. B. and *good will & confidence toward France.* The *dilemma to which Congress are* reduced is *infinitely perplexing.* If *they abet the proceedings of their Ministers, all* confidence *with France is at an end* which in the event of *a renewal of the war, must be dreadful* as in *that of peace it may* be *dishonorable. If they* [dis]*avow the conduct of their Ministers,* by *their* usual *frankness of communication,* the most serious *inconveniences* also *present* themselves. The torment of this *dilemma cannot be justly conveyed* with*out a* full*er recital of facts than is permitted.* I wish you not to hazard even an interlined decypherment of those which I have deposited in your confidence.

"Despatches were yesterday rec^d from Gen^l Washington which have *revived & increased our apprehensions on that side.* There seems to be reason to *suspect that* the *intrigues of* the *civil creditors fan* the *discontents of* the *army. The conduct of Washington* does equal honor to *his prudence and to his virtue.*

"The state *of our foreign affairs and of the army* combined with the difficulty and uncertainty of providing for justice & for our finances & with the *approaching exit of Morris, give a peculiar solemnity to* the *present moment.* God send us a speedy & *honorable deliverance from every danger.* Pray hasten the new cypher which you have promised."—Madison to Edmund Randolph, March 18, 1783. (Italics represent cypher.) *Mad. MSS.*

[1] See pp. 397, 398.

| | Dol$^{s}$ |
|---|---|
| Upon all other Teas | $\frac{24}{90}$ |
| Upon pepper, per lb | $\frac{3}{90}$ |
| Upon Brown Sugar per lb | $\frac{1}{90}$ |
| Upon loaf Sugar | $\frac{2}{90}$ |
| Upon all other Sugars | $\frac{1}{90}$ |
| Upon molasses per Gallon | $\frac{1}{90}$ |
| Upon Cocoa & Coffee, per lb | $\frac{1}{90}$ |
| Upon Salt after the war, per bushel, | $\frac{1}{8}$ |

And upon all goods, except arms, ammunition & clothing or other articles,[1] imported for the use of the U. S., a duty of 5 Per C$^{t}$ ad valorem:

Provided that there be allowed a bounty of $\frac{1}{8}$ of a dollar for every Quintal of dried fish exported from the U. S., and a like sum for every Barrel of Pickled fish, beef or pork to be paid or allowed to the exporter thereof at the port from which they shall be so exported.

The arguments urged by Mr. Wilson in behalf of his motion (see Journal) for a land tax [of $\frac{1}{4}$ of a dollar for 100 acres] other than those heretofore generally urged were that it was more moderate than had been paid before the revolution & it c$^{d}$ not be supposed the people w$^{d}$ grudge to pay as the price of their liberty what they formerly paid to their oppressors; that if it was unequal, this inequality w$^{d}$ be corrected by the States in other taxes — that as the tax on trade would fall chiefly on the inhabitants of the lower Country who consumed the imports, the tax on land would affect those who were remote from the Sea & consumed little.

On the opposite side it was alledged that such a tax was repugnant to the popular ideas of equality & particularly w$^{d}$ never be acceded to by the S. States at least unless they were to be respectively credited for the amount; and if such credit were to be given, it w$^{d}$ be best to let the States chuse such taxes as would best suit them.

[1] The other exception, as to the Cards & the wire for making them &c., was struck out unanimously on the motion of Mr. Clark; being considered as no longer necessary & contrary to the general policy of encouraging necessary manufactures among ourselves. [Note in MS.]

A letter came in & was read from the Sec$^{y}$ of F. A. stating the perplexing alternative to which Cong$^{s}$ were reduced by the secret article relating to West Florida, either of dishonoring themselves by becoming a party to the concealment or of wounding the feelings & destroying the influence of our Ministers by disclosing the article to the French Court; and proposing as advisable on the whole

1. That he be authorized to communicate the article in question to The French Minister in such manner as would best tend to remove the unfavorable impressions which might be made on the C$^{t}$ of F. as to the sincerity of Congress or their Ministers.

2. That the s$^{d}$ Ministers be informed of this communication, and instructed to agree that the limit for W. F., proposed in the separate article be allowed to whatever power the said colony may be confirmed by a Treaty of peace.

3. That it be declared to be the sense of Congress that the preliminary articles between the U. S. & G. B. are not to take effect untill peace shall be actually signed between the Kings of F. & G. B.[1]

Ordered that to-morrow be assigned for the consideration of the said letter.

WEDNESDAY MARCH 19.

A letter was read from the Superintend$^{t}$ of Finance, inclosing letters from Doc$^{t}$ Franklin, accompan$^{d}$ with extracts from the C$^{t}$ de Vergennes relative to money affairs, the Sup$^{t}$ thereupon declaring roundly that our credit was at an end & that no further pecuniary aids were to be expected from Europe. Mr. Rutledge denied these assertions, & expressed some indignation at them. Mr. Bland said that as the Sup$^{t}$ was of this opinion it would be absurd for him to be Minister of Finance and moved that the Com$^{e}$ on his motion for arranging the department might be instructed to report without loss of time. This motion was

[1] This was meant to guard ag$^{st}$ a construction that they were to take effect when peace s$^{d}$ be agreed on by those powers, & the latter be *ready* to sign, altho' the former s$^{d}$ be restrained untill the other parties s$^{d}$ be ready for signing. [Note in MS.]

negatived as censuring the Com^e^, but it was understood to be the sense of Cong^s^ that they s^d^ report.

The order of the day viz the letter from the Secretary of F. A. was taken up.

Mr. Wolcot conceived it unnecessary to waste time on the subject as he presumed Cong^s^ would never so far censure the Ministers who had obtained such terms for this country as to disavow their conduct.

Mr. Clarke was decided ag^st^ communicating the separate article, which w^d^ be sacrificing meritorious Ministers, & w^d^ rather injure than relieve our national honor. He admitted that the separate article put an advantage into the hands of the Enemy, but did not on the whole deem it of any great consequence. He thought Congress ought to go no farther than to inform the Ministers that they were sorry for the necessity which had led them into the part they had taken, & to leave them to get rid of the embarrassm^t^ as to the separate article in such a way as they s^d^ judge best. This expedient would save Congress & spare our Ministers who might have been governed by reasons not known to Congress.

Mr. Mercer said that not meaning to give offence any where, he should speak his sentiments freely. He gave it as his clear & decided opinion that the Ministers had insulted Congress by sending them assertions without proof as reasons for violating their instructions, & throwing themselves into the confidence of G. B. He observed that France in order to make herself equal to the Enemy had been obliged to call for aid & had drawn Spain ag^st^ her interest into the war; that it was not improbable that she had entered into some specific engagements for that purpose; that hence might be deduced the perplexity of her situation, of which advantage had been taken by G. B. an advantage in which our Ministers had concurred for sowing jealousies between F. & U. S. & of which further advantage w^d^ be taken to alienate the minds of the people of this Country from their ally, by presenting him as the obstacle to peace. The British Court he said hav^g^ gained this point may easily frustrate the negotiation & renew the war ag^st^ divided enemies. He approved of the conduct of the Count de Vergennes in promoting a treaty under the 1^st^ Comiss^n^ to Oswald as preferring the substance to the shadow & proceeding

from a desire of peace. The conduct of our Ministers throughout, particularly in giving in writing every thing called for by the British Minister expressive of distrust of France was a mixture of follies which had no example was a tragedy to America & a comedy to all the world beside. He felt inexpressible indignation at their meanly stooping, as it were to lick the dust from the feet of a nation whose hands were still dyed with the blood of their fellow-citizens. He reprobated the chicane & low cunning w$^{ch}$ marked the journals transmitted to Congress, and contrasted them with the honesty & good faith which became all nations & particularly an infant republic. They proved that America had at once all the follies of youth and all the vices of old age; thinks it w$^{d}$ be necessary to recall our Ministers; fears that France may be already acquainted with all the transactions of our Ministers, even with the separate article, & may be only waiting the reception given to it by Cong$^{s}$ to see how far the hopes of cutting off the right arm of G. B. by supporting our revolution may have been well founded; and in case of our basely disappointing her, may league with our Enemy for our destruction and for a division of the Spoils. He was aware of the risks to which such a league w$^{d}$ expose France, of finally losing her share, but supposed that the British Islands might be made hostages for her security. He said America was too prone to depreciate political merit, & to suspect where there was no danger; that the honor of the King of F. was dear to him, that he never w$^{d}$ betray or injure us unless he s$^{d}$ be provoked & justified by treachery on our part. For the present he acquiesced in the proposition of the Sec$^{y}$ of F$^{n}$ A$^{s}$ But when the question should come to be put, he s$^{d}$ be for a much more decisive resolution.

Mr. Rutledge said he hoped the character of our Ministers would not be affected much less their recall produced by declamations ag$^{st}$ them; and that facts would be ascertained & stated before any decision s$^{d}$ be passed; that the C$^{t}$ de Vergennes had expressly declared to our Ministers his desire that they might treat apart alluded to & animadverted upon the instruction which submitted them to French councils; was of opinion that the separate article did not concern France & therefore there was no necessity for communicating it to her; & that as to Spain she

deserved nothing at our hands, she had treated us in a manner that forfeited all claim to our good offices or our confidence. She had not as has been supposed entered into the present war as an ally to our Ally for our support ; but as she herself had declared, as a principal & on her own account. He s^d^ he was for adhering religiously to the Spirit & letter of the treaty with France, that our Ministers had done so, & if recalled or censured for the part they had acted, he was sure no man of spirit would take their place. He concluded with moving that the letter from the Sec^y^ of F. A. might be referred to a special Comm^e^, who might inquire into all the facts relative to the subject of it. Mr. Holten 2^ded^ the motion.

Mr. Williamson was opposed to harsh treatment of the Ministers who had shown great ability. He said they had not infringed the Treaty, and as they had received the concurrence of the C^t^ de Vergennes for treating apart they had not in that respect violated their instructions. He proposed that Congress s^d^ express to the Ministers their concern at the separate article & leave them to get over the embarrassment as they sh^d^ find best.

Mr. Mercer in answer to Mr. Rutledge said that his language with respect to the Ministers was justified by their refusal to obey instructions, censured w^th^ great warmth the servile confidence of Mr. Jay in particular in the British Ministers. He said the separate article was a reproach to our character, and that if Congress w^d^ not themselves disclose it he would disclose to his Constituents who would disdain to be united with those who patronize such dishonorable proceedings. He was called to order by the Presid^t^, who said that the article in question was under an injunction of secrecy & he could not permit the order of the House to be trampled upon.

Mr. Lee took notice that obligations in national affairs as well as others ought to be reciprocal & he did not know that France had ever bound herself to like engagements as to concert of negotiation with those into which America had at different times been drawn. He thought it highly improper to censure Ministers who had negotiated well, said that it was agreeable to practice & necessary to the end proposed, for Ministers in particular emergencies to swerve from strict instructions. France he said wanted

to sacrifice our interests to her own or those of Spain, that the French answer to the British Memorial contained a passage which deserved attention on this subject. She answered the reproaches of perfidy contained in that Memorial, by observing that obligations being reciprocal, a breach on one side absolved the other. The C$^{t}$ de Vergennes he was sure, was too much a Master of negotiation not to approve the management of our Ministers instead of condemning it. No man lamented more than he did any diminution of the confidence between this country & France, but if the misfortune should ensue it could not be denied that it had originated with France, who had endeavoured to sacrifice our territorial rights, those very rights which by the Treaty she had guarantied to us. He wished the preliminary articles had not been signed without the knowledge of France but was persuaded that in whatever light she might view it, she was too sensible of the necessity of our Independence to her safety ever to abandon it. But let no censure fall on our Ministers who had upon the whole done what was best. He introduced the instruction of June 15 1781 proclaimed it to be the greatest opprobrium and stain to this country which it had ever exposed itself to, and that it was in his judgment the true cause of that distrust & coldness which prevailed between our Ministers & the French Court, inasmuch as it could not be viewed by the former without irritation & disgust. He was not surprised that those who considered France as the Patron rather than the Ally of this Country should be disposed to be obsequious to her, but he was not of that number.

Mr. Hamilton urged the propriety of proceeding with coolness and circumspection. He thought it proper in order to form a right judgment of the conduct of our Ministers, that the views of the French & British Courts should be examined. He admitted it as not improbable that it had been the policy of France to procrastinate the definite acknowledgm$^{t}$ of our Independence on the part of G. B., in order to keep us more knit to herself & untill her own interests could be negotiated. The arguments how$\tilde{e}$r, urged by our Ministers on this subject, although strong, were not conclusive ; as it was not certain, that this policy & not a desire of excluding obstacles to peace, had produced y$^{e}$ opposition of

the French Court to our demands. Caution & vigilance he thought were justified by the appearance & that alone. But compare this policy with that of G. B., survey the past cruelty & present duplicity of her councils, behold her watching every occasion & trying every project for dissolving the honorable ties which bind the U. S. to their Ally, & then say on which side our resentments & jealousies ought to lie. With respect to the instructions submitting our Ministers to the advice of France, he had disapproved it uniformly since it had come to his knowledge, but he had always judged it improper to repeal it. He disapproved highly of the conduct of our Ministers in not shewing the preliminary articles to our Ally before they signed them, and still more so of their agreeing to the separate article. This conduct gave an advantage to the Enemy which they would not fail to improve for the purpose of inspiring France with indignation & distrust of the U. S. He did not apprehend (with Mr. Mercer) any danger of a coalition between F. & G. B. against America, but foresaw the destruction of mutual Confidence between F. & the U. S., which w^d^ be likely to ensue, & the danger which would result from it in case the war should be continued. He observed that Spain was an unwise nation, her policy narrow & jealous, her King old her Court divided & the heir apparent notoriously attached to G. B. From these circumstances he inferred an apprehension that when Spain sh^d^ come to know the part taken by America with respect to her a separate treaty of peace might be resorted to. He thought a middle course best with respect to our Ministers ; that they ought to be commended in general ; but that the communication of the separate article ought to take place. He observed that our Ministers were divided as to the policy of the C^t^ of France, but that they all were agreed in the necessity of being on the watch against G. B. He apprehended that if the Ministers were to be recalled or reprehended, that they would be disgusted & head & foment parties in this Country. He observed particularly with respect to Mr. Jay that, altho' he was a man of profound sagacity & pure integrity, yet he was of a suspicious temper, & that this trait might explain the extraordinary jealousies which he professed. He finally proposed that the Ministers s^d^ be commended and the separate article communicated. This motion

was 2$^{ded}$. by Mr. Osgood, as compared however with the proposition of the Secr$^{y}$ for F. A., and so far only as to be referred to a Committee.

Mr. Peters favored a moderate course as most advisable. He thought it necessary that the separate article should be communicated, but that it w$^{d}$. be less painful to the feelings of the Ministers if the doing it was left to themselves; and was also in favor of giving the territory annexed by the Separate art. to W. Florida, to such power as might be vested with that Colony in the Treaty of peace.

Mr. Bland said he was glad that every one seemed at length to be struck with the impropriety of the instruction submitting our Ministers to the advice of the French Court. He represented it as the cause of all our difficulties & moved that it might be referred to the Com$^{e}$, with the several propositions which had been made. Mr. Lee 2$^{ded}$. the motion.

Mr. Wilson objected to Mr. Bland's motion as not being in order. When moved in order perhaps he might not oppose the substance of it. He said he had never seen nor heard of the instruction it referred to until this morning; and that it had really astonished him; that this Country ought to maintain an upright posture between all nations. But however objectionable this step might have been in Cong$^{s}$, the magnanimity of our Ally in declining to obtrude his advice on our Ministers ought to have been a fresh motive to their confidence and respect. Altho' they deserved commendation in general for their services; in this respect they do not. He was of opinion that the spirit of the treaty with France forbade the signing of the preliminary articles without her consent; and that the separate article ought to be disclosed; but as the merits of our Ministers entitled them to the mildest & most delicate mode in which it c$^{d}$ be done, he wished the communication to be left to themselves as they w$^{d}$. be the best judges of the explanation which ought to be made for the concealment; & their feelings w$^{d}$. be less wounded than if it were made without their intervention. He observed that the separate article was not important in itself & became so only by the mysterious silence in which it was wrapt up. A candid and open declaration from our Ministers of the circumstances under which they acted & the necessity

produced by them of pursuing the course marked out by the interest of their Country, w^d^ have been satisfactory to our Ally, w^d^ have saved their own honor, and Would not have endangered the objects for which they were negotiating.

Mr. Higginson contended that the facts stated by our Ministers justified the part they had taken.

Mr. Madison expressed his surprise at the attempts made to fix the blame of all our embarrassments on the instruction of June 15, 1781, when it appeared that no use had been made of the power given by it to the C^t^ of France, that our Ministers had construed it in such a way as to leave them at full liberty ; and that no one in Cong^s^ pretended to blame them on that acc^t^. For himself he was persuaded that their construction was just ; the advice of France having been made a guide to them only in cases where the question respected the concessions of the U. S. to G. B. necessary & proper for obtaining peace & an acknowledg^t^ of Indep^e^ not where it respected concessions to other powers & for other purposes. He reminded Congress of the change which had taken place in our affairs since that instruction was passed,[1] and remarked the probability that many who were now perhaps the loudest in disclaiming, would under the circumstances of that period have been the foremost to adopt it. He admitted that the change of circumstances had rendered it inapplicable, but thought an express repeal of it might at this crisis at least have a bad effect. The instructions he observed for disregarding which our Ministers had been blamed, and which if obeyed would have prevented the dilemma now felt, were those which required them to Act in concert & in confidence with our Ally ; & these instructions he said had been repeatedly confirmed in every stage of the Revolution by unanimous votes of Congress ; Several of the Gentlemen present[2] who now justified our Ministers having concurred in them, and one of them[3] having penned two of the Acts, in one of

[1] The Committee who reported the instruction were, Mr. Carroll, Mr. Jones, Mr. Witherspoon Mr. Sullivan & Mr. Matthews. Mr. Witherspoon was particularly prominent throughout. [Note in MS.]

[2] M^r^ Bland, Lee & Rutledge. [Note in MSS.]

[3] Mr. Rutledge, he framed in the Committee the first draught of the declaration made in Sep^t^ last & the instruction ab^t^ the same time. This was considerably altered but not in that respect. [Note in MSS.]

which Cong.s went farther than they had done in any preceding act ; by declaring that they would not make peace until the interests of our allies and friends, as well as of the U. S. s.d be provided for.

As to the propriety of communicating to our Ally the separate article, he thought it resulted clearly from considerations both of national honor & national security. He said that Congress having repeatedly assured their ally that they would take no step in a negotiation but in concert and in confidence with him, and hav.g even published to the world solemn declarations to the same effect, would if they abetted this concealment of their Ministers be considered by all nations as devoid of all Constancy & good faith ; unless a breach of these assurances and declarations c.d be justified by an absolute necessity or some perfidy on the part of France ; that it was manifest no such necessity could be pleaded, & as to perfidy on the part of France, nothing but suspicions & equivocal circumstances had been quoted in evidence of it, and even in these it appeared that our Ministers were divided ; that the embarrassm.t in which France was placed by the interfering claims of Spain & the U. S. must have been foreseen by our Ministers, and that the impartial public would expect that instead of co-operating with G. B. in taking advantage of this embarrassment, they ought to have made every allowance & given every facility to it consistent with a regard to the rights of their Constituents ; that admitting every fact alledged by our Ministers to be true, it could by no means be inferred that the opposition made by France to our claims was the effect of any hostile or ambitious designs ag.st them, or of any other design than that of reconciling them with those of Spain ; that the hostile aspect w.ch the separate art : as well as the concealment of it bore to Spain, would be regarded by the impartial world as a dishonorable alliance with our enemies against the interests of our friends ; but notwithstanding the disappointments & even indignities which the U. S. had rec.d from Spain it could neither be denied nor concealed that the former had derived many substantial advantages, from her taking part in the war & had even obtained some pecuniary aids ; that the U. S. had made professions corresponding with these obligations ; that they had testified the

important light in which they considered the support resulting to their cause from the arms of Spain by the importunity with which they had courted her alliance, by the concessions with which they had offered to purchase it, and by the anxiety which they expressed at every appearance of her separate negotiations for a peace with the common Enemy.

That our national safety would be endangered by Congress making themselves a party to the concealment of the separate article, he thought could be questioned by no one. No definitive treaty of peace, he observed had as yet taken, place, the important articles between some of the belligerent parties had not even been adjusted, our insidious enemy was evidently laboring to sow dissensions among them, the incaution of our Ministers had but too much facilitated them between the U. S. and France ; a renewal of the war therefore in some form or other was still to be apprehended & what would be our situation if France & Spain had no confidence in us ; and what confidence could they have if we did not disclaim the policy which had heen followed by our Ministers.

He took notice of the intimation given by the British Minister to Mr. Adams of an intended expedition from N. York ag$^{st}$ W. Florida, as a proof of the illicit confidence into which our Ministers had been drawn, & urged the indispensable duty of Cong$^{s}$ to communicate it to those concerned in it. He hoped that if a Com$^{e}$ s$^{d}$ be app$^{d}$ for w$^{ch}$ however he saw no necessity that this w$^{d}$ be included in their report & that their report w$^{d}$ be made with as little delay as possible.

In the event the lett$^{r}$ from the Sec$^{y}$ of F. A., with all the despatches & the several propositions which had been made, were committed to Mr. Wilson, Mr. Ghoram, Mr. Rutledge, Mr. Clarke & Mr. Hamilton.

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THURSDAY MARCH 20.

An instruction from the Legislature of Virg$^{a}$ to their Delegates ag$^{st}$ admitting into the Treaty of Peace any stipulation for restoring confiscated property was laid before Congress.

Also resolutions of the Executive Council of Penn$^{a}$ requesting

the Delegates of that State to endeavour to obtain at least a reasonable term for making the payment of British debts stipulated in the preliminary articles lately rec$^{d}$.

These papers were committed to Mr. Osgood, Mr. Mercer & Mr. Fitzsimmons.

Mr. Dyer whose vote on the [tenth] day of [March] frustrated the commutation of the half pay made a proposition substantially the same w$^{ch}$ was committed. This seemed to be extorted from him by the critical state of our affairs, himself personally & his State being opposed to it.

The Motion of Mr. Hamilton on the Journals,[1] was meant as a testimony on his part of the insufficiency of the report of the Com$^{e}$ as to the establishm$^{t}$ of revenues, and as a final trial of the sense of Cong$^{s}$ with respect to the practicability & necessity of a *general* revenue equal to the public wants. The debates on it were chiefly a repetition of those used on former questions relative to that subject.

Mr. Fitzsimmons on this occasion declared that on mature reflection he was convinced that a *complete* general revenue was unattainable from the States, was impracticable in the hands of Congress, and that the modified provision reported by the Com$^{e}$ if established by the States w$^{d}$ restore public credit among ourselves. He apprehended however that no *limited* funds w$^{d}$ procure loans abroad, which w$^{d}$ require funds commensurate to their duration.

Mr. Higginson described all attempts of Cong$^{s}$ to provide for the public debts out of the mode prescribed by the Confederation, as nugatory; s$^{d}$ that the States w$^{d}$ disregard them that the impost of 5 Pe C$^{t}$ had passed in Mass$^{ts}$ by 2 voices only in the lower, & one in the upper house; and that the Gov$^{r}$ had never formally assented to the law; that it was probable this law w$^{d}$ be repealed,

[1] It provided that the States be recommended to provide funds to be gathered from the five per cent. *ad valorem* on importations, except on rum, etc., on which a specific duty should be charged; also five per cent. *ad valorem* on prizes and prize goods; also a land tax of —— ninetieths of a dollar on every hundred acres of land; also a house-tax of half a dollar on each dwelling-house (cottages excepted), and two and a-half per cent. on rent above $20. —*Journals of Congress*, iv., 177.

& almost certain that the extensive plans of Congress would be reprobated.

FRIDAY MARCH 21.

The Report on Revenue was taken into consideration ; and the 5 and 6 paragraphs after discussion being judged not sufficiently explicit were recommitted to be made more so.

A motion was made by Mr. Clarke, 2$^{ded}$ by Mr. Bland to complete so much of the Report as related to an impost on Trade & send it to the States immediately apart from the residue.

In support of this motion it was urged that the Impost was distinct in its nature was more likely to be adopted & ought not therefore to be delayed or hazarded by a connection with the other parts of the Report. On the other side it was contended that it was the duty of Cong$^{s}$ to provide a system adequate to the public exigencies ; & that such a system w$^{d}$ be more likely to be adopted by the States than any partial or detached provision, as it would comprise objects agreeable as well as disagreeable to each of the States, and as all of them w$^{d}$ feel a greater readiness to make mutual concessions & to disregard local considerations in proportion to the magnitude of the object held out to them.

The motion was disagreed to, N. J. being in favor of it & several other States divided.

SATURDAY 22. MARCH

A letter was rec$^{d}$ from Gen$^{l}$ Washington inclosing his address to the convention of Officers with the result of their consultations. The dissipation of the cloud which seemed to have been gathering afforded great pleasure on the whole to Congress ; but it was observable that the part which the Gen$^{l}$ had found it necessary & thought it his duty, to take, would give birth to events much more serious if they s$^{d}$ not be obviated by the establishment of such funds as the Gen$^{l}$, as well as the army had declared to be necessary.[1]

The report of the com$^{e}$ on Mr. Dyer's motion, in favor of

[1] See note, p. 407.

a commutation for the half pay was agreed to. The preamble was objected to, but admitted at the entreaty of Mr. Dyer who supposed the considerations recited in it w^d^ tend to reconcile the State of Con^t^ to the measure.

An order passed for granting 35 licenses for vessels belonging to Nantucket, to secure the Whaling vessels ag^st^ the penalty for double papers. This order was in consequence of a deputation to Cong^s^ representing the exposed situation of that island, the importance of the Whale fishery to the U. S., the danger of its being usurped by other nations & the concurrence of the Enemy in neutralizing such a number of Vessels as w^d^ carry on the fisheries to an extent necessary for the support of the inhabitants.

The Com^e^, to whom was referred the letter from the Sec^y^ of F. A., with the foreign despatches &c reported

1. That our Ministers be thanked for their zeal & services in negotiating the preliminary articles.

2. that they be instructed to make a communication of the separate article to the Court of France, in such way as would best get over the concealment.

3. that the Sec^y^ of F. A. inform them that it is the wish of Congress that preliminary articles had been communicated to the Court of France before they had been executed.

Mr. Dyer said he was opposed to the whole report; that he fully approved of every step taken by our Ministers as well towards G. B. as towards France; that the separate article did not concern the interests of France & therefore could not involve the good faith of the U. S.

Mr. Lee agreed fully with Mr. Dyer, said that the special report of facts ought to have been made necessary for enabling Cong^s^ to form a just opinion of the Conduct of the Ministers, and moved that the report might be recommitted. Mr. Wolcott 2^ded^ the motion which was evidently made for the sole purpose of delay. It was opposed by Mr. Clarke, Mr. Wilson & Mr. Ghoram the 1^st^ & last of whom had however no objection to postponing; by Mr. Mercer who repeated his abhorrence of the confidence shewn by our Ministers to those of G. B. said that it was about to realize the case of those who kicked down the ladder by w^ch^ they had

been elevated, & of the viper which was ready to destroy the family of the man in whose bosom it had been restored to life, observed that it was unwise to prefer G. B. to Spain as our neighbours in W. Florida.

Mr. Higginson supported the sentiments of Mr. Lee, s$^{d}$ that the C$^{t}$ de V. had released our Ministers & that he agreed with those who thought the instruction of June 15. c$^{d}$ relate only to questions directly between G. B. & U. S.

Mr. Holten thought there was no sufficient evidence for praise or blame; and that both ought to be suspended untill the true reasons s$^{d}$ be stated by the Ministers. He supposed that the separate article had been made an ultimatum of the preliminaries by G. B. & that there might also be secret art$^{s}$ between G. B. & F. If the latter were displeased he conceived that she w$^{d}$ officially notify it. Mr. Rutledge was ag$^{st}$ recommitting but for postponing. The motion for recomm$^{g}$ was disagreed to, but several States being for postponing, the vote was no index as to the main question.

It had been talked of among sundry members as very singular that the British Minister should have confided to Mr. Adams an intended expedition from N. Y. ag$^{st}$ W. Florida; as very reprehensible in the latter to become the depository of secrets hostile to the Friends of his Country, and that every motive of honor & prudence made it the duty of Cong$^{s}$ to impart the matter to the Spaniards. To this effect a motion was made by Mr. Mercer 2$^{ded}$ by Mr. Madison. But it being near the usual hour of adjournment, the house being agitated by the debates on the separate article; and a large proportion of members predetermined ag$^{st}$ every measure w$^{ch}$ seemed in any manner to blame y$^{e}$ Ministers & the Eastern delegates in general extremely jealous of the honor of Mr. Adams, an adjournment was pressed & carried without any vote on the motion.

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MONDAY MARCH 24TH.

On the day preceding this, intelligence arrived which was this day laid before Cong$^{s}$, that the Preliminaries for a general peace had been signed on the 20$^{th}$ of Jan$^{y}$. This intelligence was

brought, by a French Cutter from Cadiz despatched by C^t^ d'Estaing to notify the event to all vessels at sea, and engaged by the zeal of the Marquis de la Fayette to convey it to Congress.[1] This confirmation of peace produced the greater joy, as the preceding delay, the cautions of Mr. Lauren's Letter of the 24 of Dec^r^ and the general suspicions of L^d^ Shelburne's sincerity had rendered an immediate & general peace extremely problematical in the minds of many.

A letter was rec^d^ from Gen^l^ Carleton thro Gen^l^ Washington inclosing a copy of the Preliminary articles between G. B. & the U. S., with the separate article annexed.

Mr. Carroll after taking notice of the embarrassment under which Cong^s^ was placed by the injunction of secrecy as to the separate article after it had probably been disclosed in Europe & it now appeared was known at N. York, called the attention of Cong^s^ again to that subject.

Mr. Wolcot still contended that it would be premature to take any step relative to it, until further communications should be rec^d^ from our Ministers.

Mr. Gilman being of the same opinion, moved that the business be postponed. Mr. Lee 2^ded^ it.

Mr. Wilson conceived it indispensably necessary that something should be done ; that Cong^s^ deceived themselves if they supposed that the separate art: was any secret at N. York after it had been announced to them from S^r^ Guy Carleton. He professed a high respect for the character of the Ministers which had received fresh honor from the remarkable steadiness and great abilities displayed in the negotiations, but that their conduct with respect to the separate article could not be justified. He

[1] " Philad^a^ March 24. 1783.

" Dear Sir

" The express by whom I send this conveys to the Governor the wellcome event of a general peace. The preliminary articles were signed on the 20^th^ of Jany. The day to which hostilities are limited is omitted in the abstract of the preliminaries transmitted to Cong^s^ This intelligence altho' not from our Ministers is authenticated beyond all possibility of doubt. For the outlines of the articles I refer to the letter to the Gov^r^ & for the articles themselves as rec^d^ by Cong^s^ to my letter by tomorrows post."— Madison to Edmund Randolph. *Mad. MSS.*

did not consider it as any violation of the instructions of June 15th 1781, the Ct de Vergennes having happily released them from the obligation of it. But he considered it with the signing of the preliminaries secretly as a violation of the spirit of the Treaty of Alliance as well as of the unanimous professions to the Court of France, unanimous instructions to our Ministers, & unanimous declarations to the world, that nothing should be discussed towards peace but in confidence and in concert with our Ally. He made great allowance for the Ministers, saw how they were affected and the reasons of it, but could not subscribe to the Opinion that Congs ought to pass over the separate article in the manner that had been urged ; Congs ought he said to disapprove of it in the softest terms that could be devised & at all events not to take part in its concealment.

Mr. Bland treated the separate article with levity and ridicule ; as in no respect concerning France, but Spain with whom we had nothing to do.

Mr. Carroll thought that, unless something expressive of our disapprobation of the article & of its concealment, was done, that it would be an indelible stain on our character.

Mr. Clarke contended that it was still improper to take any step, either for communicating officially, or for taking off the injunction of secrecy, that the article concerned Spain, and not France, but that if it sd be communicated to the latter she would hold herself bound to communicate it to the former that hence an embarrassment might ensue ; that it was probably this consideration which led the Ministers to the concealment, and he thought they had acted right. He described the awkwardness attending a communication of it under present circumstances ; remarking, finally that nothing had been done contrary to the Treaty, and that we were in possession of sufficient materials[1] to justify the suspicions wch had been manifested.

Mr. Rutledge was strenuous for postponing the subject, said that Congs had no occasion to meddle with it that the Ministers had done right, that they had maintained the honor of the U. S. after Congress had given it up ; that the manœuvre practiced by

[1] Alluding probably to the intercepted letter from M. de Marbois. [Note in MS.]

them was common in all courts & was justifiable ag$^{st}$ Spain who alone was affected by it ; that instructions ought to be disregarded whenever the public good required it ; and that he himself would never be bound by them when he thought them improper.

Mr. Mercer combatted the dangerous tendency of the Doctrine maintained by Mr. Rutledge with regard to instructions ; and observed that the Delegates of Virg$^{a}$ hav$^{g}$ been unanimously instructed not to conclude or discuss any Treaty of Peace but in confidence & in concert with his M. C. M. he conceived himself as much bound as he was of himself inclined to disapprove every other mode of proceeding, and that he should call for the yeas & nays on the question for his justification to his constituents.

Mr. Bland tartly said that he of course was instructed as well as his colleague & s$^{d}$ himself require the yeas and nays to justify an opposite conduct, that the instructions from his constituents went no farther than to prohibit any *Treaty* without the concurrence of our Ally ;[1] which prohibition had not been violated in the case before Congress.

Mr. Lee was for postponing & burying in oblivion the whole transaction ; he s$^{d}$ that delicacy to France required this ; since if any thing should be done implying censure on our Ministers, it must & ought to be done in such a way as to fall ultimately on France whose unfaithful conduct had produced & justified that of our Ministers. In all national intercourse he said a reciprocity was to be understood ; and as France had not communicated her views & proceedings to the American Plenipotentiaries, the latter were not bound to communicate theirs. All instructions he conceived to be conditional in favor of the public good ; and he cited the case mentioned by S$^{r}$ W$^{m}$ Temple in which the Dutch Ministers concluded of themselves an Act which required the previous sanction of all the members of the Republic.

Mr. Hamilton said that whilst he despised the man who w$^{d}$ enslave himself to the policy even of our Friends he could not but lament the overweening readiness which appeared in many to suspect everything on that side & to throw themselves into the bosom of our enemies. He urged the necessity of vindicating

[1] This construction of the instructions was palpably wrong. [Note in MS.]

our public honor by renouncing that concealment to which it was the wish of so many to make us parties.

Mr. Wilson in answer to Mr. Lee observed that the case mentioned by S^r^ W^m^ T. was utterly inapplicable to the case in question; adding that the conduct of France had not on the principle of reciprocity, justified our Ministers in signing the provisional preliminaries without her knowledge, no such steps having been taken on her part. But whilst he found it to be his duty thus to note the faults of these gentlemen, he with much greater pleasure gave them praise for their firmness in refusing to treat with the British Negotiator until he had produced a proper commission, in contending for the fisheries, and in adhering to our Western claims.

Congress adjourned without any question.

TUESDAY NO CONGRESS.

WEDNESDAY MARCH 26.

Communication was made, thro' the Secr^y^ of F. A., by the Minister of France, as to the late negotiation, from letters rec^d^ by him from the C^t^ de Vergennes, dated in Dec^r^ last & brought by the Washington Packet. This communication shewed, though delicately that France was displeased with our Ministers for signing the prel^y^ art^s^ separately; that she had labored by recommending mutual concessions to compromise disputes between Spain & the U. S., and that she was apprehensive that G. B. would hereafter as they already had endeavored to sow discords between them. It signified that the "intimacy between our Ministers & those of G. B." furnished a handle for this purpose.

Besides the public communication to Congress other parts of letters from the C^t^ de Vergennes were privately communicated to the Presid^t^ of Cong^s^ & to sundry members, expressing more particularly the dissatisfaction of the C^t^ of F. at the conduct of our Ministers; and urging the necessity of establishing permanent revenues for paying our debts & supporting a national character. The substance of these private communications, as taken on the 23. instant by the President, is as follows;

FINANCE.

"That the C$^{t}$ de Vergennes was alarmed at the extravagant demands of Doc$^{r}$ Franklin in behalf of the U. S.; that he was surprised at the same time that the inhabitants paid so little attention to doing something for themselves. If they could not be brought to give adequate funds for their defence during a dangerous war, it was not likely that so desirable an end could be accomplished when their fears were allayed by a general peace that this reasoning affected the credit of the U. S., and no one could be found who would risque their money under such circumstances; that the King would be glad to know what funds were provided for the security and payment of the 10 Millions borrowed by him in Holland, that the Count de Vergennes hardly dared to report in favor of the U. S. to the King & Council, as money was so scarce that it would be with the greatest difficulty that even a small part of the requisition could be complied with. The causes of this scarcity were a five years' war which had increased the expenses of Government to an enormous amount — the exportation of large sums of specie to America for the support and pay of both French and English armies — the loans to America — the stoppage of Bullion in S. America, which prevented its flowing in the usual channels."[1] A letter of a later date added

"That he had received the Chev$^{rs}$ letter of Oc$^{r}$ and rejoiced to find that Congress had provided funds for their debts, which gave him great encouragem$^{t}$, and he had prevailed on the Comptroller General to join him in a report to his Majesty & Council for 6 Millions of livres for the U. S. to support the war, but assures the Chevalier de la Luzerne, that he must never again consent to a further application."

NEGOTIATIONS.

"He complains of being treated with great indelicacy by the American Commiss$^{rs}$, they having signed the Treaty without any confidential communication, that had France treated America

[1] Another cause mentioned was the large balance of specie in favor of the N. Powers during the war. [Note in MS.]

with the same indelicacy she might have signed her Treaty first as every thing between France & England was settled, but the King chose to keep faith with his allies, and therefore always refused to do any thing definitively, till all his allies were ready; that this conduct had delayed the definitive Treaty, England having considered herself as greatly strengthened by America; that Doc$^{r}$ Franklin waited on the C$^{t}$ de Vergennes & acknowledged the indelicacy of their behavior & had prevailed on him to bury it in oblivion; that the English were endeavouring all in their power to sow seeds of discords between our Commiss$^{rs}$ & the Court of Spain, representing our claims to the Westward as extravagant and inadmissible, that it became Congress to be attentive to this business, & to prevent the ill effects that it might be attended with, that the King had informed the Court of Spain, that tho' he heartily wished that the U. S. might enjoy a cordial coalition with his Cat$^{h}$ Majesty, yet he should leave the whole affair entirely to the two States and not interfere otherwise than as by his counsel & advice when asked, that altho' the U. S. had not been so well treated by Spain as might have been expected, yet that his Majesty wished that America might reap the advantage of a beneficial Treaty with Spain. That as the peace was not yet certain, it became all the powers at war, to be ready for a vigorous campaign, and hoped Cong$^{s}$ would exert themselves to aid the common cause by some offensive operations against the Enemy, but if the British should evacuate the U. S., the King earnestly hoped Cong$^{s}$ would take the most decided measures to prevent any intercourse with the British, and particularly in the way of merchandize or supplying them with provisions, w$^{ch}$ would prove of the most dangerous tendency to the campaign in the W. Indies, that the British now had hopes of opening an extensive trade with America, tho' the war should continue, which, if they should be disappointed in, might hasten the definitive Treaty, as it would raise a clamor among the people of England.

The Chev$^{r}$ added that as he had misinformed his Court with regard to Cong$^{s}$ having funded their debts, on which presumption the 6 Mil$^{on}$ had been granted, he hoped Cong$^{s}$ would enable him in his next despatches to give some satisfactory account to his Court on this head."

THURSDAY, MARCH 27. THIS DAY NOT NOTED IN THE JOURNAL AS IN SOME OTHER INSTANCES.

Revenues taken up as reported Mar. 7.[1]

The 5 paragraph in the Report on Revenue hav^g^ been judged not sufficiently explicit, and recommitted to be made more so, the following paragraph was rec^d^ in its place viz "That it be further recommended to the several States, to establish for a term limited to 25 years, and to appropriate" &c (to the word 2 Million of dollars annually) which proportions shall be fixed and equalized from time to time according to such rule as is or may be prescribed by the Articles of Confederation; and in case the revenues so established and appropriated by any State shall at any time yield a sum exceeding its proportion, the excess shall be refunded to it, and in case the same shall be found to be defective the immediate deficiency shall be made good as soon as possible, and a future deficiency guarded against by an enlargement of the Revenues established provided that untill the rule of the Confederation can be applied, the proportions of the 2,000,000 of dollars aforesaid shall be as follows, viz

This amendment was accepted; a motion of Mr. Clarke to restrain this apportionm^t^, in the first instance, to the term of 2 years, being first negatived. He contended that a valuation of land would probably never take place, and that it was uncertain

[1] "The pecuniary aid of France for the year 1783, had been unalterably limited to 6 Millions of livres. The greatest part of this sum had been anticipated and how our army could have been kept together for three months is utterly beyond my solution. As it is, God only knows how the plans in agitation for satisfying their just expectations will terminate; or what will be the issue in case they should be abortive. The effects of the anonymous addresses mentioned in my last on the irritable state of their minds, have been effectually obviated by the seasonable & judicious steps taken by the Commander-in-Chief. The manner however in which he found it necessary, and indeed felt it to be his duty, to espouse their interest enforces in the highest degree the establishment of adequate and certain revenues. The provision reported by a com^itte^ on this subject and of which I sketched you the import, is still before Congress. The past deliberations upon it do not with certainty prognosticate its fate. I fear it calls for more liberality & greater mutual confidence than will be found in the American Councils."—Madison to Edmund Randolph, March 25, 1783. *Mad. MSS.*

whether the rule of numbers w^d^ be substituted and therefore that the first apportionment might be continued throughout the 25 years, altho it must be founded on the present relative wealth of the States, which would vary every year, in favor of those which are the least populous.

This reasoning was not denied, but it was thought that such a limitation might leave an interval in which no apportionment w^d^ exist, whence confusion would proceed, & that an apprehension of it would destroy public Credit.

A motion was made by Mr. Bland, 2^ded^ by Mr. Lee to go back to the first part of the report & instead of the word "*levy*" an impost of 5 Per C., to substitute the word "collect" an impost &c. It was urged in favor of this motion that the first word imported a legislative idea, & the latter an executive only, and consequently the latter might be less obnoxious to the States. On the other side it was said that the States would be governed more by things than by terms; that if the meaning of both was the same, an alteration was unnecessary; that if not, as seemed to be the case, an alteration would be improper. It was particularly apprehended, that if the term "collect" were to be used, the States might themselves fix the *mode* of collection; whereas it was indispensable that Cong^s^ s^d^ have that power as well as that it might be varied from time to time as circumstances or experience s^d^ dictate, as that a uniformity might be observed throughout the States. On the motion of Mr. Clarke, the negative was voted by a large Majority, there being 4 ays only.

On the (8) parag. there was no arg^t^ or opposition.

The (9) paragraph being considered by several as inaccurate in point of phraseology, a motion was made by Mr. Madison to postpone it, to take into consideration the following to wit "That in order to remove all objections against a retrospective application of the constitutional rule to the final apportionment on the several States, of the monies & supplies actually contributed in pursuance of requisitions of Congress, it be recommended to the States to enable the U. S., in Cong^s^ assembl^d^ to make such equitable abatements & alterations as the particular circumstances of the States from time to time during the war may require, and as will divide the burden of such actual contributions among them in

proportion to their respective abilities at the periods at which they were made." On a question of striking out, the original paragraph was agreed to without opposition. On the question to insert the amendment of Mr. M., the votes of the States were, 5 ays, 6 noes, viz N. H. no—Con$^{t}$ no—N. J. no.—Del$^{re}$ no.—Maryl$^{d}$ no.—S. C. no. the rest ay.

On the (10) paragraph relative to expences incurred by the States without the sanction of Cong$^{s}$, Mr. Clarke exclaimed ag$^{st}$ the unreasonableness of burdening the Union with all the extravagant expenditures of particular States ; and moved that it might be struck out of the Report. Mr. Helmsly 2$^{ded}$ the motion.

Mr. Madison said that the effects of rejecting this paragraph w$^{d}$ be so extensive that a full consideration of it ought at least to precede such a step that the expences referred to in the paragraph were, in part such as would have been previously sanctioned by Cong$^{s}$, if application c$^{d}$ have been made ; since similar ones had been so with respect to States within the vicinity of Cong$^{s}$ and therefore complaints of injustice would follow a refusal ; that another part of the expences had been incurred in support of claims to the territory of which cessions were asked by Cong$^{s}$, and therefore these c$^{d}$ not be expected, if the expences incident to them should be rejected ; that it was probable if no previous assurance were given on this point, it would be made a condition by the States ceding, as the Cessions of territory would be made a condition by the States most anxious to obtain them ; that by these means the whole plan would be either defeated, or the part thereof in question be ultimately forced on Cong$^{s}$, whilst they might with a good grace yield it in the first instance ; not to mention that these unliquidated & unallowed claims would produce hereafter such contests & heats among the States as w$^{d}$ probably destroy the plan even if it s$^{d}$ be acceded to by the States without this paragraph.

Mr. Dyer was in favor of the paragraph.

Mr. Rutledge opposed it as letting in a flood of claims which were founded on extravagant projects of the States.

Mr. Higginson and Mr. Ghorham were earnest in favor of it, remarking that the distance of Massachusetts from Cong$^{s}$ had denied a previous sanction to the Militia operations ag$^{st}$ General

Burgoyne &c. The Penobscot expedition, also, had great weight with them.

Mr. Williamson was in favor of it.

Mr. Wilson said he had always considered this Country with respect to the war as forming one community ; and that the States which by their remoteness from Cong$^{s}$, had been obliged to incur expences for their defence without previous sanction, ought to be placed on the same footing with those which had obtained this security ; but he could not agree to put them on a better which w$^{d}$ be the case if their expenses should be sanctioned in the lump ; he proposed therefore that these expences s$^{d}$ be limited to such as had been incurred in a *necessary defence ;* and of which the object in each case should be approved by Congress.

Mr. Madison agreed that the expressions in the parag$^{h}$ were very loose, & that it w$^{d}$ be proper to make them as definite as the case w$^{d}$ admit ; he supposed however that all operations ag$^{st}$ the enemy within the limits assigned to the U. S. might be considered as defensive, & in that view the expedition ag$^{st}$ Penobscot might be so called. He observed that the term *necessary* left a discretion in the Judge as well as the term *reasonable ;* and that it w$^{d}$ be best perhaps for Congress to determine & declare that they w$^{d}$ constitute a tribunal of impartial persons to decide on oath as to the propriety of claims of States not authorized heretofore by Cong$^{s}$. He s$^{d}$ this w$^{d}$ be a better security to the States & w$^{d}$ be more satisfactory than the decisions of Cong$^{s}$, the members of w$^{ch}$ did not act on oath, & brought with them the Spirit of advocates for their respective States rather than of impartial judges between them. He moved that the clause with Mr. Wilson's proposition be recommitted ; which was agreed to without opposition.

(11 & 12 Parag$^{hs}$) Mr. Bland opposed it : s$^{d}$ that the value of land was the best rule, and that at any rate no change s$^{d}$ be attempted untill its practicability s$^{d}$ be tried.

Mr. Madison thought the value of land, could never be justly or satisfactorily obtained ; that it w$^{d}$ ever be a source of contentions among the States, and that as a repetition of the valuation would be within the course of the 25 years, it w$^{d}$ unless exchanged for a more simple rule mar the whole plan.

Mr. Ghorham was in favr of the paraghs. He represented in strong terms the inequality & clamors produced by valuations of land in the State of Masts & the probability of the evils being increased among the States themselves which were less tied together & more likely to be jealous of each other.

Mr. Williamson was in favr of the paraghs.

Mr. Wilson was strenuous in favor of it, sd he was in Congs when the Articles of Confederation directing a valuation of land were agreed to, that it was the effect of the impossibility of compromising the different ideas of the Eastern & Southern States as to the value of Slaves compared with the Whites, the alternative in question.

Mr. Clarke was in favor of them. He said that he was also in Congs when this article was decided that the Southern States wd have agreed to numbers, in preference to the value of land if ½ their Slaves only sd be included; but that the Eastern States would not concur in that proposition.

It was agreed on all sides that, instead of fixing the proportion by ages, as the report proposed it would be best to fix the proportion in absolute numbers. With this view & that the blank might be filled up, the clause was recommitted.

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FRIDAY MARCH 28.

The Comte last mentd, reported that two blacks be rated as one freeman.

Mr. Wolcott was for rating them as 4 to 3.

Mr. Carrol as 4 to 1.

Mr. Williamson sd he was principled agst slavery; & that he thought slaves an incumbrance to Society instead of increasing its ability to pay taxes.

Mr. Higginson as 4 to 3.

Mr. Rutledge sd, for the sake of the object he wd agree to rate Slaves as 2 to 1, but he sincerely thought 3 to 1 would be a juster proportion.

Mr. Holten as 4 to 3.

Mr. Osgood sd he cd not go beyond 4 to 3.

On a question for rating them as 3 to 2 the votes were N. H., ay. Mas., no. R. I., div$^{d}$. Con$^{t}$, ay. N. J., ay. P$^{a}$., ay. Del$^{r}$, ay. Mary$^{d}$, no. Virg$^{a}$, no. N. C., no. S. C., no.

The Paragraph was then postponed by general consent, some wishing for further time to deliberate on it; but it appearing to be the general opinion that no compromise w$^{d}$ be agreed to.

After some further discussions on the report in which the necessity of some simple & practicable rule of apportionment came fully into view, Mr. Madison said that in order to give a proof of the sincerity of his professions of liberality, he w$^{d}$ propose that Slaves should be rated as 5 to 3. Mr. Rutledge 2$^{ded}$ the motion. Mr. Wilson s$^{d}$ he would sacrifice his opinion on this compromise.

Mr. Lee was ag$^{st}$ changing the rule, but gave it as his opinion that 2 slaves were not equal to 1 freeman.

On the question for 5 to 3 it passed in the affirmative N. H. ay. Mass. div$^{d}$ R. I., no. Con$^{t}$ no. N. J. ay. P$^{a}$., ay Mary$^{d}$, ay V$^{a}$., ay N. C. ay. S. C. ay.

A motion was then made by Mr. Bland, 2$^{ded}$ by Mr. Lee to strike out the clause so amended and on the question "shall it stand" it passed in the negative; N. H. ay. Mas: no. R. I. no. Conn. no. N. J., ay. P$^{a}$., ay. Del. no. Mar. ay. Virg$^{a}$., ay. N. C., ay. S. C., no; so the clause was struck out.

The arguments used by those who were for rating slaves high were, that the expence of feeding & clothing them was as far below that incident to freemen as their industry & ingenuity were below those of freemen; and that the warm climate within w$^{ch}$ the States having slaves lay, compared w$^{th}$ the rigorous climate & inferior fertility of the others, ought to have great weight in the case & that the exports of the former States were greater than of the latter. On the other side it was said that Slaves were not put to labor as young as the children of laboring families—that, having no interest in their labor, they did as little as possible, & omitted every exertion of thought requisite to facilitate & expedite it; that if the exports of the States having slaves exceeded those of the others, their imports were in proportion, slaves being employed wholly in agriculture, not in manufactures; & that in fact the balance of trade formerly was much more ag$^{st}$ the S$^{o}$. States than the others.

On the main question see Journals.[1]

SATURDAY MARCH 29TH.

The objections urged ag$^{st}$ the motion of Mr. Lee on the Journal calling for a specific Report of the Sup$^{t}$ of Finance as to monies passing thro' his hands were that the information demanded from the Office of Finance had during a great part of the period, been laid before Congress & was then actually on the Table—that the term *application* of money was too indefinite no two friends of the motion agreeing in the meaning of it and that if it meant no more than immediate payments under the warrants of the Superintend$^{t}$ to those who were to expend the money, it was unnecessary, the Superintend$^{t}$ being already impressed with his duty on that subject; that if it meant the ultimate payment for articles or service for the public, it imposed a task that w$^{d}$ be impracticable to the Superin$^{t}$, and useless to Congress, who could no otherwise examine them than through the department of Accounts & the Committees app$^{d}$ half yearly for enquiring into the whole proceedings; & that if the motion were free from those objections, it ought to be so varied as to oblige the office of Finance to report the information periodically; since it would otherwise depend on the memory or vigilance of members, and w$^{d}$ moreover have the aspect of suspicion towards the Officer called upon. N. B. As the motion was made at first, the word "immediately" was used; which was changed for the words "as soon as may be," at the instance of Mr. Holten.

The object of the motion of Mr. Madison was to define & comprehend every information practicable & necessary for Cong$^{s}$ to know, & to enable them to judge of the fidelity of their Minister, and to make it a permanent part of his duty to afford it. The clause respecting copies of receipts was found on discussion not to accord with the mode of conducting business, & to be too voluminous a task; but the question was taken without a convenient opportunity of correcting it. The motion was negatived. See the Journal.[2]

[1] New Hampshire, aye; Massachusetts, no; Rhode Island, no; Connecticut, no; New York (Mr. Floyd, aye); New Jersey, aye; Delaware, no; Maryland, aye; Virginia, aye; North Carolina, aye; South Carolina, no.

[2] Six noes and four ayes. *Journals of Congress*, iv., 182.

MONDAY MARCH 31.

A letter was rec$^{d}$ from the Gov$^{r}$ of R. Island with resolutions of the Legislature of that State justifying the conduct of Mr. Howell.

On the arrival of the French Cutter with the acc$^{t}$ of the signing of the general preliminaries, it was thought fit by Congress to hasten the effect of them by calling in the American Cruisers. It was also thought by all not amiss to notify simply the Intelligence to the British Commanders at N. Y. In addition to this it was proposed by the Sec$^{y}$ of F. A. and urged by the Delegates of P$^{a}$, by Mr. Lee, Mr. Rutledge & others, that Congress should signify their desire & expectation that hostilities sh$^{d}$ be suspended at sea on the part of the Enemy. The arguments urged were that the effusion of blood might be immediately stopped & the trade of the Country rescued from depredation. It was observed on the other side that such a proposition derogated from the dignity of Cong$^{s}$; shewed an undue precipitancy; that the intelligence was not authentic enough to justify the British comanders in complying with such an overture, and therefore that Cong$^{s}$ would be exposed to the mortification of a refusal. The former consideration prevailed & a verbal sanction was given to Mr. Livingston's expressing to the s$^{d}$ comanders the expectation of Cong$^{s}$. This day their answers were rec$^{d}$ addressed to Rob$^{t}$ R. Livingston, Esq$^{r}$ &c &c &c declining to accede to the stopping of hostilities at sea & urging the necessity of authentic orders from G. B. for that purpose. With their letters Mr. Livingston communicated resolutions proposed from his office, "that in consequence of these letters the orders to the American Cruisers s$^{d}$ be revoked: and that the Executives s$^{d}$ be requested to embargo all vessels. Cong$^{s}$ were generally sensible after the re$^{t}$ of these papers that they had committed themselves in proposing to the British Commanders at N. Y., a stop to naval hostilities, & were exceedingly at a loss to extricate themselves. On one side they were unwilling to publish to the world the affront they had rec$^{d}$, especially as no written order had been given for the correspondence and on the other it was necessary y$^{t}$ the continuance of hostilities at sea should be made known to American Citizens. Some

were in favor of the revocation of hostilities, others proposed as Col: Bland, & Gen[l] Mifflin, that the Sec[y] of F. A. should be directed verbally to publish the letters from Carleton & Digby. This was negatived. The superscription was animadverted upon, particularly by Mr. Mercer, who said, that the letters ought to have been sent back unopened. Finally it was agreed that any member might take copies & send them to the press & that the subject should lie over for further consideration.

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TUESDAY APRIL 1.

Mr. Ghorham called for the order of the day to wit the Report on Revenue &c and observed as a cogent reason for hastening that business that the Eastern States at the invitation of the Legislature of Mass[ts], were with N. Y. about to form a convention for regulating matters of common concern, & that if any plan should be sent out by Cong[s] during their session, they would probably co-operate with Cong[s] in giving effect to it.

Mr. Mercer expressed great disquietude at this information, considered it as a dangerous precedent, & that it behoved the Gentleman to explain fully the objects of the Convention, as it would be necessary for the S. States to be otherwise very circumspect in agreeing to any plans on a supposition that the general confederacy was to continue.

Mr. Osgood said that the sole object was to guard ag[st] an interference of taxes among States, whose local situation required such precautions ; and that if nothing was definitively concluded without the previous communication to & sanction of Cong[s], the Confederation could not be said to be in any manner departed from ; but that in fact nothing was intended that could be drawn within the purview of the federal articles.

Mr. Bland said he had always considered those Conventions as improper & contravening the spirit of the federal Governm[t] He said they had the appearance of young Congresses.

Mr. Ghorham explains as Mr. Osgood.

Mr. Madison & Mr. Hamilton disapproved of these partial conventions, not as absolute violations of the Confederacy, but as ultimately leading to them & in the mean time exciting pernicious

jealousies ; the latter observing that he wished instead of them to see a General Convention take place & that he s^d^ soon in pursuance of instructions from his Constituents propose to Cong^s^ a plan for that purpose, the object w^d^ be to strengthen the federal Constitution.

Mr. White informed Cong^s^ that N. Hampshire had declined to accede to a plan of a Convention on foot.

Mr. Higginson said that no Gentleman need be alarmed at any rate for it was pretty certain that the Convention would not take place. He wished with Mr. Hamilton to see a General Convention for the purpose of revising and amending the federal Government.

These observations having put an end to the subject, Cong^s^ resumed the Report on Revenue &c. Mr. Hamilton who had been absent when the last question was taken for substituting numbers in place of the value of land, moved to reconsider that vote. He was 2^ded^ by Mr. Osgood. (See the Journal.) Those who voted differently from their former votes were influenced by the conviction of the necessity of the change & despair on both sides of a more favorable rate of the slaves. The rate of $\frac{3}{5}$ was agreed to without opposition. On a preliminary question, the apportionm^t^ of the sum & revision of the same ref^d^ to Grand Com^tee^ [1]

[1] Madison had for some time past been urging Randolph to go into the State Legislature where his influence on the side of adequate provisions for general funds would be most efficacious. He wrote to him April 1, 1783 :

" My dear Friend : Your favor of the 22 Ult^o^ verifies my fears that some disappointment would defeat your plan of going into the Legislature. I regret it the more, as every day teaches me more & more the necessity of such measures as I know you would have patronized ; and as are losing ground so fast in the temper of the States as to require every possible support. Unless some speedy & adequate provision be made beyond that of the Confederation, the most dismal alternative stares me in the face. And yesterday's post brought us information that a bill repealing the impost had passed the lower house of Mass^ts^ and one of a like import had made equal progress in the Legislature of S. Carolina. These defections are alarming but if a few enlightened & disinterested members would step forward in each Legislature to advocate for the necessary plans, I see with so much force the considerations that might be urged, that my hopes would still prevail. If advantage should be taken of popular prepossessions on one side without counter-efforts there is, to be sure, room for nothing but despair.

The Report as to the Resignation of Foreign Ministers was taken up & in the case of Mr. Jefferson see Journal.[1] The Eastern delegates were averse to doing anything as to Mr. Adams untill further advices s^d^ be received. Mr. Laurens was indulged not without some opposition. The acceptance of his resignation was particularly enforced by Mr. Izard.

WEDNESDAY AP.^L^ 3.—THURSDAY AP.^L^ 4.—FRIDAY AP.^L^ 5.—SATURDAY AP.^L^ 6.[2] See Journals.

The Grand Com.^e^ appointed to consider the proportions for the blanks in the Rep.^t^ on Revenue &c, reported the following,

"The extract from ————'s [Adams' ?] letter recited in yours astonishes me more than it would do you, because I must be more sensible of its contrast to truth. High as my opinion of the object [Franklin] of it was, the judgment, acuteness & patriotism displayed in the last despatches from him have really enhanced it. So far are they in particular from studiously leaving us in the dark, that some of them are of as late date as any if not later than those from several & perhaps as voluminous as all the rest put together.

"The zeal of Cong.^s^ to hasten the effect of the general preliminaries led them (precipitately as I conceive) to authorize the Sec.^y^ of F. A. to notify to Sir G. Carleton & Adm.^l^ Digby the intelligence received by the French Cutter on that subject, with their recall of American Cruizers, in order that correspondent measures might be taken at N. Y. The answers from these Commanders were addressed to Rob.^t^ R. Livingston, Esq.^re^, &c &c &c, and imported that they could not suspend hostilities at sea without proper authority from their Sovereign ; but as Congress placed full reliance on the authenticity of the intelligence they supposed no objection c^d^ lie on their part ag.^st^ releasing all prisoners &c. A letter from Digby to the French Minister is I am told remarkably surly & indecent even for a British Admiral. We have received no official report of the signing of the General Preliminaries, nor any further particulars relative to them. Your surmise as to the dangerous phraseology which may be used in designating our limits, may be realized, if our Ministers are not cautious, or s^d^ yield to improper considerations. But I trust that no such defaults will happen on that side : & that even if they should, the language used by Congress in all their own acts on that head Will overpower any arguments that may be drawn from acts of their Ministers."—*Mad. MSS.*

[1] His mission was dispensed with and he was thanked for the readiness he had shown in undertaking the service. Dana's desire to return from St. Petersburg was approved of, unless he was engaged in any negotiations, in which event he might remain.—*Journals of Congress*, iv., 184.

[2] The dates are so given in the MS. but should read, Wednesday, April 2, Thursday, April 3, Friday, April 4, and Saturday, April 5. The proceedings on April 4 are the only ones recorded in the printed journals.

grounded on the number of Inhabitants in each State; observing that N. H., R. I., Con$^{t}$, & Mar$^{d}$ had produced authentic documents of their numbers; & that in fixing the numbers of other States, they had been governed by such information as they could obtain. They also reduced the interest of aggregate debt to 2, 500,000 D$^{rs}$

| | N$^{o}$ of Inhab$^{ts}$ | proportions of 1,000. | proportions of 1½ Mil$^{n}$ |
|---|---|---|---|
| N. H. | 82,200 | 35 | 52,500 |
| Mas: | 350,000 | 148 | 222,000 |
| R. I. | 50,400 | 21 | 31,500 |
| Con$^{t}$ | 206,000 | 87 | 130,500 |
| N. Y. | 200,000 | 85 | 127,500 |
| N. J. | 130,000 | 55 | 82,500 |
| Pen$^{a}$ | 320,000 | 136 | 204,000 |
| Del. | 35,000 | 15 | 22,500 |
| Mar$^{d}$ | 220,700 | 94 | 141,000 |
| Virg$^{a}$ | 400,000 | 169 | 253,500 |
| N. C. | 170,000 | 72 | 108,000 |
| S. C. | 170,000 | 72 | 108,000 |
| Georg$^{a}$ | 25,000 | 11 | 16,500 |
| | 2,359,300 | 1,000 | 1,500,000 |

annual int$^{st}$ of debt after deducting 1,000,000 D$^{rs}$ expected from Impost on Trade.

A Com$^{e}$, consisting of Mr. Hamilton, Mr. Madison & ——— was appointed to report the proper arrangements to be taken in consequence of peace. The object was to provide a system for foreign affairs, for Indian affairs, for military & naval establishments; and also to carry into execution the regulation of weights & measures & other articles of the Confederation not attended to during the war. To the same Com$^{e}$ was referred a resolution of the Executive Council of P$^{a}$, requesting the delegates of that State to urge Cong$^{s}$ to establish a general peace with the Indians.

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MONDAY APRIL 7.

The sense of Cong$^{s}$ having been taken on the truth of the numbers reported by the Grand Committee, the n$^{o}$ allotted to S. C. was reduced to 150,000, on the representation of the Delegates

of that State. The Delegates of N. J. contended also for a reduction, but were unsuccessful. Those of Virg.ª also, on the principle that Cong.ˢ ought not to depart from the relative numbers given in 1775, without being required by actual returns which had not been obtained either from that State or others whose relation w.ᵈ be varied. To this reasoning were opposed the verbal & credible information rec.ᵈ from different persons & particularly Mr. Mercer, which made the n.º of Inhabitants in V.ª, after deducting ⅗ of the Slaves, exceed the number allotted to that State. Cong.ˢ were almost unanimous ag.ˢᵗ the reduction. A motion was made by Mr. Gervais, 2.ᵈ by Mr. Madison to reduce the n.º of Georgia to 15,000., on the probability that their real n.º did not exceed it, & the cruelty of overloading a State which had been so much torn & exhausted by the war. The motion met with little support & was almost unanimously negatived.

A letter was rec.ᵈ from Gen.ˡ Washington expressing the joy of the army at the signing of the general preliminaries notified to him & their satisfaction at the commutation of half pay agreed to by Cong.ˢ [1]

[1] "Your favor of the 29.ᵗʰ ult: was duly rec.ᵈ yesterday. Your apprehensions from the article in favor of British Creditors correspond with those entertained by all whose remarks I have heard upon it. My hope is that in the definitive treaty the danger may be removed by a suspension of their demands for a reasonable term after peace.

"The publication of Mr. Morris's letters was neither previously assented to nor known by Congress. Whether it was the act of Mr. M himself is even unknown to them. After the injunction of secrecy was taken off, the curiosity of any individual, or the interest of the printer might obtain copies for the press.

"The imperfect information brought by the French Cutter is all that we have yet rec.ᵈ relative to peace. It is reported from N. York that similar intelligence had been brought thither by a Vessel from Lisbon. Hostilities however continue to devour our commerce.

"The report on revenue of which I gave you the outlines is still in an unfinished state; but in a way I flatter myself of being ultimately & substantially adopted. The admission into the common mass, of all expenses of the war not authorized by Congress, is the remaining article of difficulty. Even this however under some qualifications is so respectably patronized & so intimately linked with the article concerning the back lands that I do not despair altogether of seeing that also finally comprehended. A change of the valuation of Lands for the number of Inhabitants deducting ⅗ of the Slaves, has rec.ᵈ a tacit sanction & unless hereafter expunged will go forth in the general recommendation, as

## TUESDAY APRIL 8TH.

Estimate of the debt of the U. S., reported by the Grand Committee.

### Foreign Debt.

| | | | |
|---|---|---|---|
| To the Farmers General of France . . | Livrs | 1,000,000 | |
| To Beaumarchais . . . . . | | 3,000,000 | |
| To the King of France, to the end of 1782 | | 28,000,000 | |
| To dº for 1783 . . . . . | | 6,000,000 | |
| | Livrs | 38,000,000 | = $7,037,037 |
| Recd on loan in Holland, 1,678,000 florins . . . . . | | | 671,200 |
| Borrowed in Spain by Mr. Jay . . . . . | | | 150,000 |
| Int. on Dutch one year, at 4 Pr Ct . . . . . | | | 26,848 |
| Total for. debt . . . . . | | | $7,885,085 |

### Domestic Debt.

| | | |
|---|---|---|
| Loan Office . . . . . | $11,463,802 | |
| Interest unpaid for 1781 . . . . . | 190,000 | |
| Do 1782 . . . . . | 687,828 | |
| Credit to sundry persons on Treasury books . | 638,042 | |
| Army debt to 31 Dr 1782 . . . . . | 5,635,618 | |
| Unliquidated dº . . . . . | 8,000,000 | |
| Deficiencies in 1783 . . . . . | 2,000,000 | |
| Total dom. debt . . . . . | | $28,615,290 |
| Aggregate debt . . . . . | | $36,500,375 |

### Interest.

| | |
|---|---|
| On for debt, 7,885,085, at 4 Per Ct . . . . . | $315,403 |
| On domestic debt, 28,615,290, at 6 do . . . . . | 1,716,917 |
| On commutation of half-pay, estimated at 5,000,000 at 6 do . | 300,000 |
| Bounty to be pd, estimd at 500,000, at 6 do . . . . | 30,000 |
| Aggreg of Int. . . . . | $2,362,320 |

material to future harmony & justice among the members of the Confederacy. The deduction of $\frac{2}{3}$ was a compromise between the wide opinions & demands of the Southern & other States.

"A letter was recd yesterday from Genl Washington in answer to a notification from the Presidt of the signing of the Genl preliminaries on the 20 Jany, expressing the joy of the army at the glorious event, and the satisfaction they had recd from the Act of Congs commuting the half-pay &c."—Madison to Edmund Randolph, April 6, 1783. *Mad. MSS.*

A motion was made by Mr. Hamilton who had been absent on the question on the 9th paragraph of the Report on Revenue assessing quotas, to reconsider the same. Mr. Floyd who, being the only delegate from N. Y. then present on that question cd not vote, 2ded the motion. For the argts repeated see the former remarks on the 7th of Apl

On the question the votes were Mas: no. R. I. no. Cont no. N. Y. ay. N. J. no. Pa ay. Maryd, no. Virga ay. S. C. no.

WEDNESDAY APRIL 9.

A memorial was recd from Genl Hazen in behalf of the Canadians who had engaged in the cause of the U. S., praying that a tract of vacant land on L. Erie might be allotted to them.

Mr. Wilson thereupon moved that a Come be appointed to consider and report to Congress the measures proper to be taken with respect to the Western Country. In support of his motion he observed on the importance of that Country, the danger from immediate emigrations of its being lost to the public; & the necessity on the part of Congress of taking care of the federal interests in the formation of new States which could not take place by the authority of any particular States.

Mr. Madison observed that the appointment of such a Come could not be necessary at this juncture & might be injurious that Congs were about to take in the report on Revenue &c the only step that could now be properly taken viz to call again on the States claiming the W. Territory to cede the same; that until the result sd be known every thing wd be premature & wd excite in the States irritations & jealousies that might frustate the Cessions; that it was indispensable to obtain these Cessions, in order to compromise the disputes, & to derive advantage from the territory to the U. S.; that if the motion meant merely to prevent irregular settlements, the recommendation to that effect ought to be made to the States—that if ascertaining & disposing of garrisons proper to be kept up in that Country was the object it was already in the hands of the Come on peace arrangements, but might be expressly referred to them.

Mr. Mercer supported the same ideas.

Mr. Clarke considered the motion as nowise connected with the peace arrangements; his object was to define the western limits of the States which Cong$^{s}$ alone c.$^{d}$ do, and which it was necessary they s.$^{d}$ do in order to know what territory properly belonged to the U. S., and what steps ought to be taken relative to it. He disapproved of repeatedly courting the States to make *Cessions* w$^{ch}$ Cong$^{s}$ stood in no need of.

Mr. Wilson seemed to consider as the property of the U. S. all territory over which particular States had not exercised jurisdiction particularly N. W. of Ohio, & said that within the Country confirmed to the U. S. by the Provisional articles, there must be a large Country over which no particular claims extended.

He was answered that the exercise of jurisdiction was not the criterion of territorial rights of the States; that Pen.$^{a}$ had maintained always a Contrary Doctrine; that if it were a criterion V.$^{a}$ had exercised jurisdiction over the Illinois & other places conquered N. W. of the Ohio; that it was uncertain whether the limits of the U. S., as fixed by the Prov.$^{l}$ Art.$^{s}$, did comprehend any territory out of the claims of the individual States; that s.$^{d}$ it be the case a decision or examination of the point had best be put off till it s.$^{d}$ be seen whether Cessions of the States w.$^{d}$ not render it unnecessary; that it c.$^{d}$ not be immediately necessary for the purpose of preventing settlem.$^{ts}$ on such extra lands, since they must lie too remote to be in danger of it. Congress refused to refer the motion to the Com.$^{e}$ on peace arrangents, and by a large majority referred it to a Special Com.$^{e}$, viz M.$^{r}$ Osgood, Wilson Madison, Carrol & Williamson; to whom was also referred the Mem.$^{l}$ of Gen.$^{l}$ Hazen.

On the preceding question, Con.$^{t}$ was strenuous in fav.$^{r}$ of Mr. Wilson's motion.

A motion was made by Mr. Dyer to strike out the drawback on salt fish &c. Mr. Ghorham protested in the most solemn manner that Mass.$^{ts}$ w.$^{d}$ never accede to the plan without the drawback. The motion was very little supported.

THURSDAY AP$^{L}$ 10.

Letters rec$^{d}$ from Gen$^{l}$ Carleton & Admiral Digby inclosing British proclamation[1] of cessation of arms & also letters from Doc$^{r}$ Franklin & Mr. Adams notifying the conclusion of Preliminaries between G. B. & F. & Spain, with a declaration entered into with Mr. Fitzherbert applying the epochs of cessation to the case of G. B. & the U. S. These papers were referred to the Sec$^{y}$ of F. A. to report a proclamation for Cong$^{s}$ at 6 O'Clock, at which time Cong$^{s}$ met & rec$^{d}$ report nearly as it stands on the Journal of Friday Ap$^{l}$ 11.[2] After some consideration of the Report as to the accuracy & propriety of which a diversity of sentiments prevailed, they postponed it till next day. The Sec$^{y}$ also reported a Resolution directing the Sec$^{y}$ at War and Agent of Marine to discharge all prisoners of war.

FRIDAY AP$^{L}$ 11.

This day was spent in discussing the Proclamation which passed. Mr. Wilson proposed an abbreviation of it which was disagreed to. The difficultys attending it were that 1$^{st}$ the Agreement of our Ministers with Fitzherbert that the Epochs with Spain as well as France s$^{d}$ be applied to the U. S. to be computed from the ratifications which happened at different times, the former on the 3$^{d}$, the latter on the 9$^{th}$, of Feb$^{y}$; 2$^{d}$ the circumstance of the Epochs having passed at w$^{ch}$ the Cessation of hostilities was to be enjoined. The impatience of Cong$^{s}$ did not

[1] "The important contents of the inclosed paper were brought hither yesterday by a British officer sent for that purpose by S$^{r}$ G. Carleton. To-day Congr$^{s}$ rec$^{d}$ letters from Dr. F. & Mr. Adams, inclosing a declaration entered into by them & the British Plenip$^{y}$, by which the epochs at which hostilities are to cease between France & G. B. are adopted between the latter & America. A great diversity of opinion prevails as to the time at which they were to cease on this Coast. The Merchants & the lawyers are most affected by the question."—Madison to Edmund Randolph, April 10, 1783. *Mad. MSS.*

[2] This was the proclamation "Declaring the cessation of arms, as well by sea as by land, agreed upon between the United States of America and his Britannic majesty; and enjoining the observance thereof."—*Journals of Congress*, iv., 186, 187.

admit of proper attention to these & some other points of the Proclamation ; particularly the authoritative style of enjoining an observance on the U. S., the Gov$^{rs}$ &c. It was ag$^{st}$ these absurdities & improprieties that the solitary *no* of Mr. Mercer was pointed. See the Journal.

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SATURDAY AP$^{L}$ 12.

A letter of the 16$^{th}$ of Dec$^{r}$ O. S. was rec$^{d}$ from Mr. Dana, in which he intimates that in consequence of the news of peace taking place & independence being acknowledged by G. B. he expected soon to take his proper station at the C$^{t}$ of St. Petersburg & to be engaged in forming a Commercial Treaty with her Imperial Majesty.

Mr. Madison observed that as no powers or instructions had been given to Mr. Dana relative to a Treaty of Comerce, he apprehended there must be some mistake on the part of Mr. Dana ; that it w$^{d}$ be proper to inquire into the matter & let him know the intentions of Cong$^{s}$ on this subject. The letter was committed to Mr. Madison Mr. Ghorham & Mr. Fitzsimmons.

Mr. Rutledge observed that as y$^{e}$ instructions to Foreign Ministers now stood it was conceived they had no powers for commercial stipulations other than such as might be comprehended in a definitive Treaty of Peace with G. B. He said he did not pretend to commercial knowledge but thought it w$^{d}$ be well for the U. S. to enter into commercial Treaties with all nations & particularly with G. B. He moved therefore that the Com$^{e}$ s$^{d}$ be instructed to prepare a General Report for that purpose.

Mr. Madison & Mr. Fitzsimmons thought it w$^{d}$ be proper to be very circumspect in fettering our trade with stipulations to foreigners, that as our stipulations w$^{d}$ extend to all the possessions of the U. S. necessarily—& those of foreign Nations hav$^{g}$ colonies to part of their possessions only ; and as the most fav$^{d}$ nations enjoyed greater privileges in the U. S. than elsewhere. The U. S. gave an advantage in Treaties on this subject, & finally that negotiations ought to be carried on here, or our Ministers directed to conclude nothing without previously reporting every thing for the

sanction of Cong$^{s}$. It was at length agreed that the Com$^{e}$ s$^{d}$ report the general state of instructions existing on the subject of Commercial Treaties.

Congress took into consideration the report of the Sec$^{y}$ for F. A. for immediately setting at liberty all the Prisoners of war & ratifying the provisional articles. Several members were extremely urgent on this point from motives of Oeconomy. Others doubted whether Cong$^{s}$ were bound thereto, & if not bound whether it would be proper. The first question depended on the import of the provisional articles, which were very differently interpreted by different members. After much discussion from which a general opinion arose of extreme inaccuracy & ambiguity as to the force of these articles, the business was committed to Mr. Madison, Mr. Peters, & Mr. Hamilton who were also to report on the expediency of ratifying the said articles immediately.

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MONDAY APRIL 14.

The Committee on the report of the Secretary of foreign Aff$^{rs}$ reported as follows. Mr. Hamilton dissenting.

1. That it does not appear that Congress are any wise bound to go into the ratification proposed. " The Treaty " of which a ratification is to take place, as mentioned in the 6$^{th}$ of the Provisional articles, is described in the title of those articles to be " a Treaty of Peace proposed to be concluded between the Crown of G. B. and the said U. S., but which is not to be concluded until terms of Peace shall be agreed upon between G. B. & France." The Act to be ratified therefore is not the Prov$^{l}$ articles themselves, but an Act *distinct*,—*future*,— and *even contingent.* Again altho' the Declaratory Act entered into on the 20$^{th}$ of Jan$^{y}$ last, between the American & British Plenipotentiaries relative to a cessation of hostilities, seems to consider the contingency on which the Prov$^{l}$ articles were suspended as having taken place, yet that act cannot itself be considered as the *Treaty of Peace meant to be concluded ;* nor does it stipulate that either the Prov$^{l}$ articles, or the act itself should be ratified in America ; it only engages that the U. S. shall cause hostilities to cease on their part, an

engagement which was duly fulfilled by the Proclamation issued on the 11th instant; lastly it does not appear from the correspondence of the American Ministers, or from any other information, either that such ratification was expected from the U. S. or intended on the part of G. B.; still less that any exchange of mutual ratifications has been in contemplation.

2. If Congress are not bound to ratify the articles in question, the Come are of opinion that it is inexpedient for them to go immediately into such an Act; inasmuch as it might be thought to argue that Congress meant to give to those articles the quality & effect of a definitive Treaty of Peace with G. B., tho' neither their allies nor friends have as yet proceeded farther than to sign preliminary articles; and inasmuch as it may oblige Congs to fulfil immediately all the stipulations contained in the provl articles, tho' they have no evidence that a correspondent obligation will be assumed by the other party.

3. If the ratification in question be neither obligatory nor expedient, the Come are of opinion, that an immediate discharge of all prisoners of war,[1] on the part of the U. S., is premature and unadvisable; especially as such a step may possibly lessen the

[1] "Genl Carleton is very importunate for an immediate execution of the provisional articles on the part of Congress in the points of liberating the prisoners, and recommending restitution to the Loyalists. On his part he has set the example on the first point but says nothing of executing the other important conditions which are in our favor. This proposition has led Congs into a critical discussion of the import of the Provl Articles, in which the opinions are almost as numerous as the articles themselves. Some think that the instrument was converted by the signature of preliminary articles between F. & G. B. into the Treaty of Peace, of which a ratification in America is alluded to in the 6 art. Others think that it was conditioned no otherwise on terms of peace between these powers, than that such an agreement rendered it a lawful & necessary foundation for a Treaty of peace between the U. S. & G. B. Some again suppose that the provl art: need no ratification from Congs but that they ought to wait for a Treaty to be grounded on them. Others suppose that a ratification is essential or at least proper. The latter description again are divided—some proposing to ratify them as articles still contingent, others to ratify them as having taken effect in consequence of the preliminary Articles between G. B. & F. This variety & contrariety of interpretation arise in a great measure from the obscurity & even contrariety of the articles themselves." —Madison to Edmund Randolph, April 15, 1783. *Mad. MSS.*

force of demands for a reimbursement of the sums expended in the subsistence of the prisoners.

Upon these considerations the Com^e^ recommend that a decision of Cong^s^ on the papers referred to them be postponed.

On this subject a variety of sentiments prevailed.

Mr. Dyer, on a principle of frugality was strenuous for a liberation of the prisoners.

Mr. Williamson thought Cong^s^ not obliged to discharge the Prisoners previous to a definitive treaty, but was willing to go into the measure as soon as that public honor would permit. He wished us to move pari passu, with the British Comander at New York. He suspected that the place would be held till the interests of the Tories should be provided for.

Mr. Hamilton contended that Congress were bound, by the tenor of the Prov^l^ Treaty immediately to Ratify it, and to execute the several stipulations inserted in it; particularly that relating to a discharge of Prisoners.

Mr. Bland thought Cong^s^ not bound.

Mr. Elseworth was strenuous for the obligation and policy of going into an immediate execution of the treaty. He supposed that a ready & generous execution on our part w^d^ accelerate the like on the other part.

Mr. Wilson was not surprised that the obscurity of the Treaty s^d^ produce a variety of ideas. He thought upon the whole that the Treaty was to be regarded as "contingently definitive."

The Report of the Com^e^ being not consonant to the prevailing sense of Cong^s^, it was laid aside.

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TUESDAY APRIL 15.

The ratification of the Treaty & discharge of prisoners were again agitated. For the result in a unanimous ratification see the secret Journal of this day; the urgency of the majority producing an acquiescence of most of the opponents to the measure.

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WEDNESDAY APRIL 16.

Mr. Hamilton acknowledged that he began to view the *obligation* of the pro^l^ Treaty in a different light and in consequence

wished to vary the direction of the Comander in chief from a positive to a preparatory one as his motion on the Journal states.[1]

THURSDAY APRIL 17.

Mr. Madison with the *permission* of the Com^e on Revenue reported the following clause to be added to the 10^th paragraph in the first report viz

"And to the end that convenient provision may be made for determining in all such cases how far the expences may have been reasonable as well with respect to the object thereof as the means for accomplishing it, thirteen comis^rs namely one out of each State shall be appointed by Congress, any seven of whom (having first taken an oath for the faithful & impartial execution of their trust) who shall concur in the same opinion, shall be empowered to determine finally on the reasonableness of the claims for expences incurred by particular States as aforesaid; And in order that such determinations may be expedited as much as possible, the Comis^rs now in appointment for adjusting acc^ts between the U. S. and individual States, shall be instructed to examine all such claims & report to Cong^s such of them as shall be supported by satisfactory proofs, distinguishing in their reports the objects and measures in which the expences shall have been incurred; provided that no balances which may be found due under this regulation, or the Resolutions of the ——— day of ———, shall be deducted out of the preceding Revenues; but shall be discharged by separate requisitions to be made on the States for that purpose."

In support of this proposition it was argued that in a general provision for public debts and public tranquillity satisfactory measures ought to be taken on a point w^ch many of the States had so much at heart, & which they w^d not separate from y^e other matters proposed by Congress; that the nature of the business was unfit for the decision of Cong^s, who brought with them

[1] "That the commander in chief be directed to enter into preparatory arrangements, relative to the 7^th article of the said treaty, with the commanders in chief of the British land and naval forces in America."— *Journals of Congress*, iv., 188

y^e^ spirit of advocates rather than of Judges, and besides required more time than could be spared for it.

On the opposite side some contended that the Acc^ts^ between the U. S. & particular States s^d^ not be made in any manner to encumber those between the former and private persons. Others thought that Cong^s^ could not delegate to Com^rs^ a power of allowing claims for which the Confed^on^ req^d^ nine States. Others were unwilling to open so wide a door for claims on the Common Treasury.

On the question, Mas^ts^ divided. Con^t^ ay. R. I^d^ no. N. Y. no. N. J. no. P^a^ no. Mary^d^ no. V^a^ ay. N. C. no. S. C. no.

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FRIDAY APRIL 18.

Application was made from the Council of P^a^ for the determination of Cong^s^ as to the effect of y^e^ acts terminating hostilities, on Acts to be inforced during the war. Cong^s^ declined giving any opinion.

The motion of Mr. Bland for striking out the recommendation to the States which had agreed to cede territory, to revise & *compleat* their Cessions, raised a long debate. In favor of the motion it was urged by Mr. Rutledge that the proposed Cession of V^a^ ought to be previously considered & disallowed; that otherwise a renewal of the recommendation w^d^ be offensive; that it was possible the Cession might be accepted in which case the renewal w^d^ be improper. Virg^a^, he observed alone could be alluded to as having complied in part only.

Mr. Wilson went largely into the subject. He said, *If the investigation of right* was to be considered, the U. S. ought rather to make cessions to individual States than receive Cessions from them, the extent of y^e^ Territory ceded by the Treaty being larger than all the States put together; that when the claims of the States came to be limited on principles of right, the Alleghany Mountains would appear to be the true boundary; this could be established without difficulty before any Court, or the Tribunal of the World. He thought however policy req^d^ that such a boundary s^d^ be established as w^d^ give to the Atlantic States access to the Western Waters. *If accommodation* was the object, the

clause ought by no means to be struck out. The Cession of Virg[a] would never be accepted because it guarantied to her the Country as far as the Ohio, which never belonged to Virg[a]. (Here he was called to order by Mr. Jones.) The question he s[d] must be decided. The indecision of Cong[s] had been hurtful to the interests of the U. S. If the compliance of V[a] was to be sought she ought to be urged to comply fully.

For the vote in the affirmative, with the exception of Virg[a] & S. Carol. see Journal.

The plan of Revenue was then passed as it had been amended, all the States present concurring except R. I., w[ch] was in the negative & N. Y., w[ch] was divided Mr. Floyd ay & Mr. Hamilton no.[1]

MONDAY APRIL 21.

A motion was made by Mr. Hamilton, 2[ded] by Mr. Madison, to annex, to the plan of the 18[th] instant, the part omitted relating to

[1] "The report on funds &c, passed Congress on Saturday last with the dissent of R. Island, and the division of N. York only. The latter vote was lost by the rigid adherence of Mr. Hamilton to a plan which he supposed more perfect. The clause providing for unauthorized expenditures could not be reinstated, and, consequently no attempt was made to link all the parts of the acts inseparably together. As it now stands it has I fear no bait for Virg[a], which is not particularly interested either in the object or the mode of the revenues recommended, nor in the territorial Cessions, nor in the change of the constitutional rule of dividing the Public burdens. A respect for justice, good faith & national honor is the only consideration which can obtain her compliance.

"We have rec[d] no intelligence from abroad which deserves to be noted, since your departure. The interval between the preliminary & definitive Treaties has produced several new & interesting questions. One is whether laws prohibiting commerce with British Ports during the war, have expired with the cessation of hostilities? A similar one is, whether the Soldiers enlisted for the war are entitled to a discharge. At least half of the army under Gen[l] Washington are under this description and are urgent for such a construction of their engagements. A third question is whether the preliminary treaty between F. & G. B. has given such effect to the provisional articles between the latter & the U. S. as to require an execution of the stipulations in the 6 & 7th arti[s], or whether a definitive Treaty only can produce this effect,

"The system for foreign affairs is not yet digested, and I apprehend will be long on the anvil, unless the actual return of our Ministers from Europe should Stimulate Cong[s] on the subject."— Madison to Thomas Jefferson, April 22, 1783. *Mad. MSS.*

expences incurred by individual States. On the question, N. York, Pen[a] & Virg[a] alone were in the affirmative, Con[t] & Georgia not present.

Tuesday Ap[l] 22. See Journal.[1]

WEDNESDAY APRIL 23.

The resolution permitting the soldiers to retain their arms was passed at the recommendation of Gen[l] Washington. See his letter on the files.

The resolution for granting furloughs or discharges was a compromise between those who wished to get rid of the expence of keeping the men in the field, and those who thought it impolitic to disband the army whilst the British remained in the United States.

Ap[l] 24, Friday, 25 Ap[l]. See Journal.[2]

SATURDAY APRIL 26.

Address to the States passed nem. con. It was drawn up by Mr. Madison.[3] The address to Rh. I[d] referred to as No. 2, had been drawn up by Mr. Hamilton.

[1] Several unimportant private measures were under consideration.

[2] According to the Journal (IV. 194.) the address to the States was agreed to April 24.

[3] "Address to the States, to accompany the Recommendations of the 18th

"The prospect which has for some time existed, and which is now happily realized, of a successful termination of the war, together with the critical exigencies of public affairs have made it the duty of Congress to review and provide for the debts which the war has left upon the United States and to look forward to the means of obviating dangers, which may interrupt the harmony and tranquillity of the Confederacy. The result of their mature & solemn deliberations on these great Objects is contained in their several recommendations of the 18th instant, herewith transmitted. Although these recommendations, speak themselves the principles on which they are founded, as well as the ends which they propose, it will not be improper to enter into a few explanations and remarks in order to place in a stronger view the necessity of complying with them.

"The first measure recommended is effectual provision for the debts of the United States. The amount of these debts, as far as they can now be ascer-

The writer of these notes absent till Monday May 5th.[1]

MONDAY, MAY 5TH.

Mr. Bland & Mr. Mercer moved to erase from the Journal the resolution of Friday, the 2d. inst. applying for an addition of three

tained is forty-two millions three hundred and seventy-five dollars as will appear by the schedule N. 1. To discharge the principle of this aggregate debt at once or in any short period is evidently not within the compass of our resources; and even if it could be accomplished the ease of the community would require that the debt itself should be left to a course of gradual extinguishment and certain funds be provided for paying in the meantime the annual Interest. The amount of the annual interest as will appear by the paper last referred to is computed to be two millions four hundred and fifteen thousand nine hundred and fifty-six dollars. Funds, therefore, which will certainly & punctually produce this annual sum at least, must be provided.

"In devising these funds Congress did not overlook the mode of supplying the common treasury provided by the Articles of Confederation. But after the most respectful consideration of that mode, they were constrained to regard it as inadequate & inapplicable to the form into which the public debt must be thrown. The delays & uncertainties incident to a revenue to be established & collected from time to time by thirteen independent authorities is at first view irreconcilable with the punctuality essential in the discharge of the interest of a national debt. Our own experience, after making every allowance for transient impediments has been a sufficient illustration of this truth. Some departure therefore in the recommendation of Congress from the federal constitution was unavoidable; but it will be found to be as small as could be reconciled with the object in view and to be supported besides by solid considerations of interest and sound policy.

"The fund which first presented itself on this as it did on a former occasion, was a tax on imports. The reasons which recommended this branch of revenue have heretofore been stated in an Act, of which a copy, N. 2 is now forwarded & need not be here repeated. It will suffice to recapitulate that taxes on consumption are always least burdensome because they are least felt and are borne too by those who are both willing and able to pay them; that of all taxes on consumption those on foreign commerce are most compatible with the genius and policy of free states; that from the relative positions of some of the more commercial States it will be impossible to bring this essential resource into use without a concerted uniformity; that this uniformity cannot be concerted through any channel so properly as through Congress, nor for any purpose so

[1] He accompanied the family of James Floyd on their journey back to New York as far as Brunswick, sixty miles from Philadelphia, returning to Philadelphia Friday evening. He was then paying his addresses to Miss Floyd, who soon afterwards rejected him.

Millions to the grant of six millions, by H. M. X^n. Majesty, as in part of the loan of four Millions requested by the Resolution of

aptly as for paying the debts of a revolution from which an unbounded freedom has accrued to Commerce.

"In renewing this proposition to the states we have not been unmindful of the objections which heretofore frustrated the unanimous adoption of it. We have limited the duration of the revenue to the term of twenty five years and we have left to the States themselves the appointment of the officers who are to collect it. If the strict maxims of national credit alone were to be consulted, the revenue ought manifestly to be co-existent with the object of it; and the collection placed in every respect under that authority, which is to dispense the former and is responsible for the latter. These relaxations will, we trust, be regarded, on one hand as the effect of a disposition in Congress to attend at all times to the sentiments of those whom they serve, and on the other hand, as a proof of their anxious desire that provision may be made in some way or other for an honorable and just fulfilment of the engagements which they have formed.

"To render this fund as productive as possible and at the same time to narrow the room for collusions and frauds, it has been judged an improvement of the plan to recommend a liberal duty on such articles as are most susceptible of a tax according to their quantity and are of most equal and general consumption, leaving all other articles, as heretofore proposed, to be taxed according to their value.

"The amount of this fund is computed to be 915,956 dollars. The estimates on which the computation is made are detailed in paper N^o 3. Accuracy in the first essay on so complex and fluctuating a subject is not to be expected. It is presumed to be as near the truth as the defect of proper materials would admit.

"The residue of the computed interest is 1,500,000 dollars & is referred to the States to be provided for by such funds as they may judge most convenient. Here again the strict maxims of public credit gave way to the desire of Congress to conform to the sentiments of their constituents. It ought not to be omitted however with respect to this portion of the revenue that the mode in which it is to be supplied varies so little from that pointed out in the articles of Confederation and the variations are so conducive to the great object proposed, that a ready & unqualified compliance on the part of the States may be the more justly expected. In fixing the quotas of this sum, Congress, as may be well imagined, were guided by very imperfect lights, and some inequalities may consequently have ensued. These however can be but temporary; and as far as they may exist at all, will be redressed by a retrospective adjustment as soon as a constitutional rule can be applied.

"The necessity of making the two foregoing provisions one indivisible & irrevocable act is apparent. Without the first quality, partial provision only might be made, where complete provision is essential; nay as some states might prefer and adopt one of the funds only, and the other States the other fund only, it might happen that no provision at all would be made. Without the second, a single state out of the thirteen might at any time involve the

September the 14, 1782. As the resolution of the 2$^{d}$ had been passed by fewer than nine States, they contended that it was

nation in bankruptcy; the mere practicability of which would be a fatal bar to the establishment of national credit. Instead of enlarging on these topics, two observations are submitted to the justice and wisdom of the legislatures. First, the present creditors or rather the domestic part of them having either made their loans for a period which has expired or having become creditors in the first instance involuntarily, are entitled on the clear principles of justice and good faith to demand the principal of their credits instead of accepting the annual interest. It is necessary therefore as the principal cannot be paid to them on demand, that the interest should be so effectually & satisfactorily secured as to enable them, if they incline to transfer the stock at its full value. Secondly if the funds be so firmly constituted as to inspire a thorough & universal confidence, may it not be hoped that the capital of the domestic debt, which bears the high interest of 6 per cent. may be cancelled by other loans obtained at a more moderate interest? The saving by such an Operation would be a clear one, and might be a considerable one. As a proof of the necessity of substantial funds for the support of our credit abroad we refer to paper N 4.

"Thus much for the interest of the national debt. For the discharge of the principal, within the term limited, we rely on the natural increase of the revenue from commerce, on requisitions to be made from time to time for that purpose as circumstances may dictate, and on the prospect of vacant territory. If these resources should prove inadequate it will be necessary at the expiration of 25 years to continue the funds now recommended or to establish such others as may then be found more convenient.

"With a view to the resource last mentioned, as well as to obviate disagreeable controversies and confusions, Congress have included in their present recommendations a renewal of those of the 6 day of Sept$^{r}$ and of the 10 day of October 1780. In both these respects a liberal and final accommodation of all interfering claims of vacant territory is an object, which cannot be pressed with too much solicitude.

"The last object recommended is a constitutional change of the rule by which a partition of the common burthens is to be made. The expediency and even necessity of such a change, has been sufficiently enforced by the local injustice and discontents which have proceeded from valuations of the soil in every state where the experiment has been made. But how infinitely must these evils be increased on a comparison of such valuations among the States themselves! On whatever side indeed this rule be surveyed the execution of it must be attended with the most serious difficulties. If the valuations be referred to the authorities of the several states, a general satisfaction is not to be hoped for. If they be executed by Officers of the United States traversing the country for that purpose, besides the inequalities against which this mode would be no security, the expense would be both enormous and obnoxious. If the mode taken in the act of the 17$^{th}$ day of february last, which was deemed on the whole least objec-

unconstitutional. The reply was that as the three Millions were to be part of a loan heretofore authorized, the sanction of nine States

tionable, be adhered to, Still the insufficiency of the data to the purpose to which they are to be applied must greatly impair, if not utterly destroy all confidence in the accuracy of the result ; not to mention that as far as the result can be at all a just one, it will be indebted for the advantage to the principle on which the rule proposed to be substituted is founded. This rule, although not free from objections, is liable to fewer than any other that could be devised. The only material difficulty, which attended it in the deliberations of Congress was to fix the proper difference between the labour and industry of free inhabitants and of all other inhabitants. The ratio ultimately agreed on was the effect of mutual concessions, and if it should be supposed not to correspond precisely with the fact, no doubt ought to be entertained that an equal spirit of accommodation among the several legislatures will prevail against little inequalities which may be calculated on one side or on the other. But notwithstanding the confidence of Congress as to the success of this proposition, it is their duty to recollect that the event may possibly disappoint them, and to request that measures may still be pursued for obtaining and transmitting the information called for in the act of the 17 of february last, which in such event will be essential.

" The plan thus communicated & explained by Congress must now receive its fate from their constituents. All the objects comprised in it are conceived to be of great importance to the happiness of this confederated Republic ; are necessary to render the fruits of the Revolution a full reward for the blood, the toils, the cares, and the calamities which have purchased it. But the object, of which the necessity will be peculiarly felt, and which it is peculiarly the duty of Congress to inculcate, is the provision recommended for the national debt. Although this debt is greater than could have been wished, it is still less on the whole than could have been expected : and when referred to the cause in which it has been incurred and compared with the burthens which wars of ambition and of vain glory have entailed on other nations ought to be borne not only with cheerfulness but with pride. But the magnitude of the debt makes no part of the question. It is sufficient that the debt has been fairly contracted and that justice and good faith demand that it should be fully discharged. Congress had no option but between different modes of discharging it. The same option is the only one that can exist with the states. The mode which has after long and elaborate discussion been preferred is we are persuaded, the least objectionable of any that would have been equal to the purpose. Under this persuasion we call upon the justice and plighted faith of the several states to give it its proper effect, to reflect on the consequences of rejecting it ; and to remember that Congress will not be answerable for them.

" If other motives than that of justice could be requisite on this occasion, no nation could ever feel stronger. For to whom are the debts to be paid ?

" To an ally, in the first place, who, to the exertion of his arms in support of our cause has added the succours of his treasure ; who to his important loans

was not necessary. The motion was negatived The two movers alone voting in the Affirmative.

has added liberal donations, and whose loans themselves carry the impression of his magnanimity and friendship. For more exact information on this point we refer to paper no. 5.

" *To individuals in a foreign country*, in the next place, who were the first to give so precious a token of their confidence in our justice, & of their friendship for our cause ; and who are members of a republic, which was second in espousing our rank among nations. For the claims and expectations of this class of creditors we refer to paper N° 6.

" Another class of creditors is *that illustrious & patriotic band of fellow-citizens*, whose blood and whose bravery have defended the liberties of their country, who have patiently borne, among other distresses, the privation of their stipends, whilst the distresses of their country disabled it from bestowing them ; and who even now ask for no more than such a portion of their dues as will enable them to retire from the field of victory and glory into the bosom of peace and private citizenship, and for such effectual security for the residue of their claims as their country is now unquestionably able to provide. For a full view of their sentiments & wishes on this subject we transmit the paper n 7, and as a fresh & lively instance of their superiority to every species of seduction from the paths of virtue and of honor we add the paper N° 8.

" The remaining class of creditors is composed partly of such of our fellow citizens as originally lent to the public the use of their funds, or have since manifested most confidence in their country by receiving transfers from the lenders ; and partly of those, whose property has been either advanced or assumed for the public service. To discriminate the merits of these several descriptions of creditors would be a task equally unnecessary & invidious. If the voice of humanity plead more loudly in favour of some than of others ; the voice of policy no less than of justice pleads in favour of all. A wise nation will never permit those who relieve the wants of their country, or who rely most on its faith, its firmness and its resources, when either of them is distrusted, to suffer by the event.

" Let it be remembered finally that it has ever been the pride and boast of America, that the rights for which she contended were the rights of human nature. By the blessing of the Author of these rights on the means exerted for their defence they have prevailed against all opposition and form the basis of thirteen independent States. No instance has heretofore occurred, nor can any instance be expected hereafter to occur, in which the unadulterated forms of Republican government can pretend to so fair an opportunity of justifying themselves by their fruits. In this view the citizens of the United States are responsible for the greatest trust ever confided to a political society. If justice, good faith, honor, gratitude and all the other qualities which enoble the character of a nation & fulfil the ends of government, be the fruits of our establishments, the cause of liberty will acquire a dignity and lustre, which it has never

## TUESDAY MAY 6.[1]

A motion was made by Mr. Lee to recommend to the several States to pass laws indemnifying Officers of the Army for damages

yet enjoyed, and an example will be set, which cannot but have the most favourable influence on the rights of Mankind. If on the other side, our governments should be unfortunately blotted with the reverse of these cardinal and essential virtues, the great cause which we have engaged to vindicate, will be dishonored and betrayed; the last and fairest experiment in favor of the rights of human nature will be turned against them; and their patrons and friends exposed to be insulted and silenced by the votaries of tyranny and usurpation." —Cont. Cong.

Paper No. 1 referred to in the address was an estimate of the national debt. As to the foreign debt the figures are the same as in the estimate of April 8 (p. 443); as to the domestic debt they are the same with the addition of "Commutation to the army" (Act of March 22) 5,000,000 livres and "Bounty due to privates" 500,000 livres, making the total domestic debt $34,115,290 and the total debt $42,000,375, the aggregate of interest being $2,415,956. For Paper No. 2, the letter of December 16 to Rhode Island on the subject of the import duties, see p. 288 n. Paper No. 3 was an estimate of the revenue that the import duties would produce. All goods from Europe, exclusive of tea, brandy and wine were estimated at a value of £3,000,000 sterling, which at 4s. 6d. per dollar would make $15,555,554, giving, at five per cent., $777,773. From spirits, wines, teas, sugar, coffee and cocoa, and molasses the revenue would be $217,777, making a total of $995,550. Deducting 8 per cent. for collection, the net estimated revenue would be $915,956. Paper No. 4 was a copy of Franklin's letter from Passy, December 23, 1782, stating that a knowledge that the states had not agreed to the impost had hurt the credit of the United States in France and Holland, and of the French Minister's letter to Congress, March 15, 1783, stating that no further assistance could be expected from France, or from any other source abroad, unless measures for securing regular revenue should be concerted. Papers No. 5 and 6 gave the contracts between the United States and France and Holland, respectively, for the repayment of the loans made by those governments. Paper No. 7 was the address of the army dated "Cantonments, Hudson's River, December, 1782," setting forth the unendurable distress caused by a want of funds. Paper No. 8 was a copy of Washington's letter giving the anomynous communications to the army and his orders for the meeting of the officers, the results of the meeting and all the correspondence. All the papers may be found *in extenso* in Journals of Congress, iv, 197, *et seq.*

[1] Madison related the march of events outside of Congress in the two following letters:

TO EDMUND RANDOLPH.

Philad[a] 6 May, 1783

After a silence of 4 weeks your favor of the 26 Ult, was particularly welcome. Your conjecture was but too well founded as to the compiler of the Proclama-

sustained by individuals from Acts of such officers rendered necessary in the execution of their military functions. It was referred to Mr. Lee, Mr. Williamson & Mr. Clarke.

tion. The offensive passages were adverted to by some, but the general eagerness on the occasion, increased by some unavoidable delays, rendered all attempts to draw the attention of Congress to smaller inaccuracies unacceptable.

We have no late despatches from Paris, except a letter from Mr. Adams which affords a new & signal exemplification of those qualities which have so much distinguished his correspondence with Congress. We are informed from Madrid by Mr. Carmichael & the Marquis de la Fayette, that that Court since the British acknowledgm[t] of our Independence has dismissed its hauteur & reserve towards the U. S. has treated the American Chargé d'Affaires with due attention & has signified its acquiescence in the limits fixed by the provisional articles between the U. S. & G. B. The navigation of the Mississippi remains to be discussed.

Yesterday was fixed for an interview between Gen[l] W. and S[r] G. Carleton for the purpose of taking arrangements for carrying the stipulations of the provisional articles into effect. The interview was proposed by the former, who intimated that as the evacuation of the Post of N. Y. was particularly interesting to the State of N. Y. Gov[r] Clinton would accompany him on the interview. The answer of Carleton imported that he did not decline the proposition, but suggested that as Gen[l] Gray was expected with final orders it might be best to postpone the conference, adding that he should be attended by *L[t]-Gov[r] Elliott* and *Chief-Justice Smith.—Mad. MSS.*

TO THOMAS JEFFERSON.

Philad[a] May 6, 1783

Your favor of the 21. Ult: written at Col: Pendleton's was brought to hand by the Post of last week Col: Floyd's family did not set out untill the day after it was received. I accompanied them as far as Brunswick, about 60 miles from this and returned hither on friday evening. . . . *Congress have rec[d] a long and curious letter from Mr. Adams, dated in Feb. addressed to the president not to the Secretary for foreign affairs. He animadverts on the revocation of his commn for a treaty of commerce with great Britain presses the appointment of a minister to that Court with such a commn draws the picture of a fit character in which his own likeness is rediculously & palpably studied finally praising and recommending Mr Jay for the appointment provided injustice must be done an older servant.*

Letters from the Marquis de la Fayette and Mr. Carmichael that the Court of Spain has become pretty tractable since the acknowledgment of our Independence by G. B. The latter has been treated with due respect, and the Court has agreed to accede to the territorial line it fixed for W. Florida in the provisional Articles. The navigation of the Mississippi remains to be settled.

My absence from Cong[s] the past week disables me from giving you exact

He proposed also that an Equestrian statue should be erected to General Washington.

A report from the Sec$^{y}$ of For: Affairs of a Treaty of Commerce to be entered into with G. Britain, was referred to Mr. Fitzsimmons, Mr. Higginson, Mr. Rutledge, Mr. Helmsley & Mr. Madison.

WEDNESDAY MAY 7.

The Resolution moved yesterday by Mr. Lee for indemnifying military Officers, being reported by the Committee was agreed to.

The Committee on a motion of Mr. Dyer, reported "that the States which had settled with their respective lines of the Army for their pay since Aug 1. 1780, should receive the securities which would otherwise be due to such lines."

The Report was opposed on the ground that the settlements had not been discharged in the value due. The Notes issued in payment by Connecticut were complained of, as being of little value.

The Report was disagreed to. See Journal.

THURSDAY MAY 8.

Mr. Bland suggested that the Prisoners of War should be detained, until an answer be given as to the delivery of slaves, represented in a letter to Mr. Thomas Walke to be refused on the part of S$^{r}$ Guy Carleton.

On his motion seconded by Mr. Williamson it was ordered that the letter be sent to Gen Washington for his information, in carrying into effect the Resolution of Ap$^{l}$ 15. touching arrangements with the British Commander for delivery of the Posts, Negroes &c.

A Portrait of Don Galvez was presented to Congress by Oliver Pollock.

information of their latest proceedings. I am told that in consequence of *Mr. Adams's letter the secretary of foreign affairs has been instructed to project a treaty of commerce with great Britain, which will probably bring the attention of Congress to the general department of foreign affairs.* (Italics for cypher.)—*Mad. MSS.*

FRIDAY MAY 9.

A question on a Report relating to the occupying the Posts when evacuated by the British was postponed by Virginia in right of a State.

Mr. Dyer moved a recommendation to the States to restore confiscated property conformably to the Provisional Articles. The motion produced a debate which went off without any positive result.

Adjourned to Monday.

MONDAY MAY 12.

See Journal.[1]

TUESDAY MAY 13.

No Congress.[2]

WEDNESDAY MAY 14.

Mr. Hamilton & Mr. Elseworth moved a call on the States, to fulfil the recommendation relative to the Tories. After some remarks on the subject, the House adjourned.

[1] The Commander in Chief was directed to place in the frontier posts, whenever they should be evacuated in pursuance of the articles of the treaty of peace, troops whose service had not expired, until further measures should be decided upon. The Superintendent of Finance was ordered to pay the officers deputed by the army to present their memorial to Congress on January 8th their reasonable expenses during their stay in town.—*Journals of Congress*, iv., 221.

[2] The project for a treaty of commerce with great Britain was brought forward by Livingston at this time. It prompted Madison to write the two following letters:

TO THOMAS JEFFERSON.

Philad[a], May 13, 1783.

DEAR SIR

*Marbois lately took occasion in our family to complain of ungenerous proceedings of the British against individuals, as well as against their enemies at large, and* finally signified that he *was no stranger to the letter transmitted to Congress which he roundly averred to be spurious. His information came from Boston,* where *the incident is said to be no secret;* but *whether it be the echo of letters from Philad[a] or has transpired from the correspondence of Mr. Adams to his private friends* is uncertain. This *conversation passed during my absence in new Jersey, but was related to me by Mr. Carroll.*

*A project for a treaty of commerce with Britain has been reported by the Secretary of foreign affairs and is now in the hands of a commee. The objects most*

Thursday, May 15. See Journal.[1] The Report relating to the Dep[t] of For. Affairs taken up, and, after some discussion of the expediency of raising the salary of the Sec[y] Congress adjourned.

*at heart are first a direct trade between this country & the West Indies. Second a right of carrying between the latter & other parts of the British empire. Thirdly a right of carrying from the West Indies to all other parts of the world. As the price of these* advantages *it is proposed that we shall admit British subjects to equal privileges with our own citizens. As to the first object it may be observed that the bill lately brought into the British Parliament renders it probable that it may be obtained without such a cession*, as to the *second that it concerns the Eastern States chiefly & as to the third that it concerns them alone, whilst the privilege to be conceded* will chiefly if not alone *affect the Southern States.* The interest of these *seems to require that they should retain at least the faculty of giving any* encouragement *to their own merchants' ships or mariners, which may be necessary to prevent a relapse under scotch monopoly, or to* acquire *a maritime importance. The Eastern States need no such precaution.*

Gen[l] Washington & Gen[l] Carleton have had an interview on the subject of arrangements for executing the provisional Treaty. It was interrupted by the sudden indisposition of the latter. In the conversation which took place, he professed intentions of evacuating New York & all the posts in the U. S. held by British Garrisons as soon as possible, but did not authorize any determinate or speedy expectations. (Illegible) that a number of Negroes had gone off with the Refugees since the arrival of the Treaty, and undertook to justify the permission by a palpable & scandalous misconstruction of the Treaty, and by the necessity of adhering to the proclamations under the faith of which the Negroes had eloped into their service. He said that if the Treaty should be otherwise explained, compensation would be made to the owners and to make this the more easy, a register had been & would be kept of all Negroes leaving N. Y before the surrender of it by the British Garrison. This information has been referred by Cong[s] to a Committee. But the progress already made in the discharge of the prisoners, the only convenient pledge by which fair dealing, on the other side, could be enforced, makes it probable that no remedy will be applied to the evil. (Italics for cypher.) Mad. MSS.

TO EDMUND RANDOLPH.

Philad[a] May — 1783.

MY DEAR SIR,

Your favor of the 9th inst. was duly brought by yesterday's Mail. My impatience is great to know the reception given to the propositions of Congress by

[1] The committee to whom was referred a claim of the officers of a brigade raised in Rhode Island in 1779 for one year for depreciation of their pay reported against an allowance, since none had thus far been made to any officers or soldiers discharged before April 10, 1780.—*Journals of Congress*, iv., 222.

FRIDAY MAY 16.

See Journal.[1]

SATURDAY MAY 17.

No Congress.

MONDAY MAY 19.

Spent in debating the Report recommending provision for the Tories according to the Provisional Artic. of peace.

the Assembly. I foresaw some of the topics which are employed against them, & I dread their effect from the eloquent mouths which will probably enforce them; but I do not despair. Until those who oppose the plan, can substitute some other equally consistent with public justice & honor, and more conformable to the doctrines of the Confederation, all those who love justice and aim at the public good will be advocates for the plan. The greatest danger is to be apprehended from the difficulty of making the latter class sensible of the impracticability or incompetency of any plan short of the one recommended; the arguments necessary for that purpose being drawn from a general survey of the federal system, and not from the interior polity of the States singly.

The letter from the Delegation by the last post to the Gov[r] appr the Legislature, thro him that negotiations for a Treaty of Commerce with G. B. might be expected soon to take place; and that if any instructions should be deemed proper no time ought to be lost in giving the subject a legislative discussion. For my own part I wish sincerely that the commercial interests of Virginia were thoroughly investigated & the final sense of the State expressed to its representatives in Congress.

The power of forming Treaties of Commerce with foreign nations is among the most delicate with which Cong[s] are entrusted and ought to be exercised with all possible circumspection. Whilst an influence might be expected from them on the event or duration of the war, the public interest required that they should be courted with all the respectable nations of Europe, and that nice calculations of their tendency should be dismissed. The attainment of the object of the war has happily reversed our situation and we ought no longer to enslave ourselves to the policy of the moment. The state of this Country in relation to the Countries of Europe it ought to be observed, will be continually changing, and regulations adapted to its commercial & general interests at present may hereafter be directly opposed to them. The general policy of America is at present pointed at the encouragement of Agriculture, and the importation of the objects of consumption. The wider therefore our ports are opened, and the more extensive the privileges of all competitors in our commerce, the more likely we shall be to buy at cheap & sell at profitable rates. But in proportion

[1] The pay for Chaplains and for couriers and postage for our missions abroad was under consideration.—*Journals of Congress*, iv., 222.

TUESDAY MAY 20.

On the proposal to discharge the troops who had been enlisted for the war (amounting to ten thousand men,) from the want of means to support them.

Mr. Carroll urged the expediency of caution, the possibility that advantage might be taken by G. B. of a discharge both of prisoners

as our lands become settled, and spare hands for manufactures & navigation multiply, it *may* become our policy to favor those objects by peculiar privileges bestowed on our citizens ; or at least to introduce regulations [not] inconsistent with foreign engagements suited to the present state of things.

The relative situation of the different States in this respect is another motive to circumspection. The variance of their policy & interests, in the article of Commerce strikes the first view, and it may with great truth be noted that as far as any concessions may be stipulated in favor of foreign nations they will chiefly be at the expense of those States which will share least in the compensations obtained for them. If, for example, restrictions be laid on the legislative rights of the States to prohibit, to regulate or to tax as they please their imports & exports, & to give such preferences as they please to the persons or vessels employed in them, it is evident that such restrictions will be most felt by those States who have the greatest interest in exports & imports. If on the other side the Citizens of the U. S. should in return for such a stipulation be allowed to navigate & carry, in forbidden channels, is it not equally evident that the benefit must fall to the share of those States which export & consume least, and abound most in resources of ships & seamen.

Nor should it be overlooked that as uniform regulations of the Commerce of the different States will so differently affect their several interests, such regulations must be a strong temptation to measures in the aggrieved States which may first involve the whole confederacy in controversies with foreign nations, and then in contests with one another. I may safely suggest also to your ear, that a variety of circumstances make it proper to recollect that permanent engagements, entered into by the Confederacy with foreign powers, may survive the Confederacy itself ; that a question must then arise how far such engagements formed by the States in their federal character, are binding on each of them separately and that they may become pretexts for quarrels with particular States, very inconvenient to the latter, or for a general intrusion into American disputes. On the other hand candor suggests that foreign connections, if founded on principles equally corresponding with the policy & interests of the several States might be a new bond to the federal compact.

Upon these considerations I think it would be advisable to form all our commercial Treaties in future with great deliberation, to limit their duration to moderate periods, & to restrain our Ministers from acceding finally to them till they have previously transmitted them in the terms adjusted, for the revision and express sanction of Congress. In a Treaty of Commerce with G. B.,

and of the army, and suggested the middle course, of furloughing the troops.

Mr. Dyer was strenuous for getting rid of expence ; considered the war at an end ; that G. B. might as well renew the war after the definitive Treaty as now ; that not a moment ought to be lost in disburdening the public of needless expence.

Mr. Rutledge viewed the conduct of G. B. in so serious a light that he almost regretted having voted for a discharge of Prisoners. He urged the expediency of caution, and of consulting the Commander chief. He accordingly moved that the Report be referred to him for his opinion & advice. The motion was seconded by Mr. Izard.

Mr. Clarke asked whether any military Operation was on foot that the Commander in Chief was to be consulted. This was a

it may be the policy of Virg[a], in Particular, to reserve her right as unfettered as possible over her own commerce. The monopoly which formerly tyrannized over it has left wounds which are not yet healed, & the numerous debts due from the people, & which by the provisional articles they are immediately liable for, may possibly be made instruments for re-establishing their dependence. It cannot therefore be for the interest of the State to preclude it from any regulations which experience may recommend for its thorough emancipation. It is possible that experience may never recommend an exercise of this right, nor do my own sentiments favor, in general, any restrictions or preferences in matters of commerce but those who succeed us will have an equal claim to judge for themselves, and will have further lights to direct their judgments. Nor ought the example of old & intelligent nations to be too far or too hastily condemned by an infant and inexperienced one. That of G. B. is in the science of commerce, particularly worthy of our attention ; And did she not originally redeem the management of her Commerce from the monopoly of the Hanse towns by peculiar exemptions to her own subjects? Did she not dispossess the Dutch by a like policy? And does she not still make a preference of her own Vessels and her own mariners the basis of her maritime power? If Holland has followed a different system the reason is plain. Her object is not to exclude rivals from her own navigation, but to insinuate herself into that of other nations.

The leading objects in the proposed Treaty with G. B. are, 1. a direct commerce with the W. Indies. 2, the carrying trade between the different parts of her dominions. 3, a like trade between these & other parts of the world. In return for these objects we have nothing to offer of which we could well deprive her, but to secure to her subjects an entire equality of privileges with our own citizens. With regard to the 1. object it may be observed, that both the temper & the interest of the nation leave us little ground to apprehend an exclusion

national question, which the National Council ought to decide. He was ag$^{st}$ furloughing the men because they would carry their arms with them. He said we were at peace, & complained that some could not separate the idea of a Briton from that of cutting throats.

Mr. Ellsworth enlarged on the impropriety of submitting to the Commander in Chief a point on which he could not possess competent materials for deciding. We ought either to discharge the men engaged for the war or to furlough them. He preferred the former.

Mr. Mercer descanted on the insidiousness of G. B., and warmly opposed the idea of laying ourselves at her mercy that we might save fifty thousand dollars; altho' Congress knew they were violating the Treaty as to Negroes.

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from it. The French have so much the advantage of them from the facility of raising food as well as the other produce of their Islands, that the English will be under the necessity of admitting supplies from the U. S. into their Islands, and they surely will prefer paying for them in commodities to paying for them in cash. With regard to the 2nd & 3d objects it may be observed that altho' they present great advantages, they present them only to those States which abound in maritime resources. Lastly with regard to the concession to be made on the part of the U. S., it may be observed that it will affect chiefly if not solely those States which will share least in the advantages purchased by it. So striking indeed does this contrast appear that it may with certainty be inferred that If G. B. were negotiating a Treaty with the former States only, she would reject a mutual communication of the privileges of natives; nor is it clear that her apprehensions on this side will not yet lead her to reject such a stipulation with the whole.

If this subject should be taken up by the Legislature, I hope that, altho' not a member, your attention & aid will be given to it. If it s$^{d}$ not be taken up publicly I wish for your own private sentiments & those of the most intelligent members which you may be able to collect.

We have no European intelligence. S$^{r}$ G Carleton in a letter to G$^{el}$ W. avows the same sentiments as were expressed in the conference relative to the negroes, but repeats his caution ag$^{st}$ their being understood as the national construction of the Treaty. . . .

In reviewing the freedom of some of the remarks which I have hazarded above, I am almost induced to recall them till I can cover them with cypher. As there is little danger attending the mail at present and your own (illegible) will take care of such as may be improper to be reverberated to this place I shall upon the whole let them stand.—*Mad. MSS.*

Mr. Williamson proposed that the Soldiers be furloughed. Mr. Carroll seconded him, that the two modes of furlough & discharge might both lye on the table.

By general consent this took place.

The Report as to confiscated property, on the Instructions from Virg[a] and Penn[a], was taken up, & agreed to be recommitted, together with a motion of Mr. Madison to provide for the case of Canadian Refugees & for settlement of acc[ts] with the British, and a motion of Mr. Hamilton to insert, in a definitive Treaty, a mutual stipulation not to keep a naval force on the Lakes.

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WEDNESDAY MAY 21. THURSDAY MAY 22.

See the Secret Journal for these two days.

The passage relating to the armed neutrality was generally concurred in for the reasons which it expresses.[1]

The disagreements on the questions relating to a Treaty of Commerce with Russia were occasioned chiefly by sympathies, particularly in the Massachusetts Delegation with Mr. Dana; and by an eye in the navigating & Ship building States to the Russian Articles of Iron & Hemp. They were supported by S. Carolina, who calculated on a Russian market for her Rice.

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[1] Hamilton made the motion, seconded by Madison, that Dana be informed that the primary object of his mission to St. Petersburgh was terminated, and that the benefits of a commercial treaty were remote and without present inducements, that if any such treaty should be made it should be of brief duration, as experience would show more clearly the principles upon which the intercourse between the two countries should be conducted. The passage relating to armed neutrality was as follows:

"That though Congress approve the principles of the armed neutrality, founded on the liberal basis of a maintenance of the rights of neutral nations and of the privileges of Commerce, yet they are unwilling, at this juncture, to become a party to a confederacy which may hereafter too far complicate the interests of the United States with the politicks of Europe, and therefore, if such a progress is not yet made in this business as may make it dishonorable to recede, it is their desire, that no further measures may be taken at present towards the admission of the United States into that confederacy."—*Secret Journals of Congress, For. Affs., 346.*

FRIDAY MAY 23.

The Report from M^r^ Hamilton, Ghorham and Peters, in favor of discharging the soldiers enlisted for the war, was supported on the ground that it was called for by Economy and justified by the degree of certainty that the war would not be renewed. Those who voted for furloughing the soldiers wished to avoid expence, and at the same time to be not wholly unprepared for the contingent failure of a definitive treaty of peace. The view of the subject taken by those who were opposed both to discharging and furloughing, were explained in a motion by Mr. Mercer seconded by Mr. Izard to assign as reasons, first that S^r^ Guy Carleton had not given satisfactory reasons for continuing at N. York, second, that he had broken the Articles of the provisional Treaty relative to the negroes, by sending them off.

This motion appeared exceptionable to several, particularly to Mr. Hamilton & rather than it should be entered on the Journal by yeas and nays, it was agreed that the whole subject should lye over.

The Report relative to the Department of For. Affairs being taken up ; Mr. Carroll seconded by Mr. Williamson moved that no public Minister should be employed by the U. S. except on extraordinary occasions.

In support of the proposition it was observed that it would not only be economical, but would withhold our distinguished Citizens from the corrupting scenes at foreign Courts, and what was of more consequence would prevent the residence of foreign Ministers in the U. S., whose intrigues & examples might be injurious both to the Gov^t^ & the people.

The considerations suggested on the other side were that Diplomatic relations made part of the established policy of Modern Civilized nations, that they tended to prevent hostile collisions by mutual & friendly explanations & that a young Republic ought not to incur the odium of so singular & as it might be thought disrespectful an innovation. The discussion was closed by an Adjournment till Monday.

MONDAY MAY 26.

The Resolutions on the Journal instructing the Ministers in Europe to remonstrate ag$^{st}$ the carrying off the Negroes ; also those for furloughing the troops passed *unanimously.*

TUESDAY 27 MAY
WEDNESDAY 28 MAY } No Congress.

THURSDAY MAY 29.

The report of the Committee concerning Interest on British debts was committed, after some discussion.

FRIDAY MAY 30.

The debates on the Report recommending to the States a compliance with the 4$^{th}$ 5 & 6$^{th}$ of the provisional Articles were renewed ; the Report being finally committed nem. con. See Secret Journal.

The Report, including the objections to interest on British debts ; was also agreed to nem. con. ; not very cordially by some who were indifferent to the objects ; and by others who doubted the mode of seeking it by a new stipulation.

MONDAY & TUESDAY JUNE 2 & 3.

See Journal.[1]

WEDNESDAY JUNE 4.

The Report of the Committee for giving to the Army certificates for land was taken up. After some discussion of the subject, some members being for some ag$^{st}$ making the certificates transferable it was agreed that the Report should lie on the table.

[1] Oliver Pollock was commissioned as commercial agent to the Havana and the agent of marine was instructed to take legal measures against the bonds of privateers for abuses committed by them.—*Journals of Congress*, iv., 226.

For what passed in relation to the Cession of vacant territory by Virg[a] see the Journal.[1]

[1] January 2, 1781, Virginia offered a cession of the whole territory claimed by her northwest of the Ohio River, on condition that she be reimbursed for her expenses in conquering and defending the ceded territory; that the inhabitants be protected; that Congress fulfill the promises Virginia had made to George Rogers Clarke and his officers and soldiers of grants of land for their services in reducing the British posts; that further grants be made, if necessary, to her continental and state troops; and that the land be used for the common benefit. The land companies arrayed themselves against the cession, as it provided that their claims should be considered void. November 3, a committee of Congress reported that the lands, pretended to be ceded, belonged to the Six Nations of Indians, and were under the government of New York. The subject came up again in Congress September 6, 1782, and on October 29, the cession of all rights, interests and *claims* of New York was accepted. Virginia's cession was accepted September 13 substantially as originally offered. See also Rives's *Madison*, i., 445, *et seq.*

Madison anticipated the discussion in the following letter of May 20 to Jefferson:

"For the tenor of the conditions on which Cong[s] were formerly willing to accept the Cession of Virg[a], I beg leave to refer to their resolutions of the 6 of Sep[r] & 10 of Oct[r] 1780. I take it for granted you have the Journals. The expunging of the article relative to State expenses was a subject of no less regret with me than it is with you & for the same reason, but I acknowledge that considering the probable defect of vouchers in Virg[a] and the ardor with which the clause was supported from some other quarters, mine was much diminished in the course of the discussion. On the last trial there were but two or three States besides Virg[a] that favored it. S. Carolina's opposition to it had great weight. After this clause was expunged it was thought improper to retain the connective clause as Virg[a] will now be at liberty to confine her accession to the revenue part of the plan, without enlarging her territorial Cession or being deprived of the opportunity of annexing any Condition she may think fit. The connective clause however could not have been carried I believe either before or after the mutilation of the plan. Notwithstanding this disappointment I adhere to my wishes not only that the revenue may be established, but that the federal rule of dividing the burdens may be changed, and the territorial disputes accommodated. The more I revolve the latter subject, the less inducement I can discover to pertinacity on the part of Virg[a] and the more interesting it appears to the Union.

"I am sorry your departure from Richmond became necessary before more of the members were assembled. I make no doubt that useful impressions have been left with those who were so & were susceptible of them. I shall keep in mind the intimation relative to Mr. Short. The idea of adding a fraction of a year to my Congressional Service is totally new, and even if it s[d] prevail, will not as far as I can see, coincide with my private convenience."—*Mad. MSS.*

Whilst Mr. Hamilton's motion relating to Mr. Livingston, Secretary of For. affrs was before the House, Mr. Peters moved, in order to detain Mr. Livingston in office, that it be declared, by the seven States present that the Salary ought to be augmented. To this it was objected 1. that it would be an assumption of power in 7 States to say, what 9 States ought to do. 2. that it might ensnare Mr. Livingston. 3. that it would commit the present, who ought to be open to discussion when 9 States should be on the floor. The motion of Mr. Peters being withdrawn, that of Mr. Hamilton was agreed to.

THURSDAY JUNE 5.

See Journal.[1]

FRIDAY JUNE 6.

The Report as to the territorial Cession of Virga after some uninteresting debate was adjourned.[2]

[1] "*Resolved*, That if any captain or commander of any packet, ship of war or armed vessel in the service of the United States, shall load, or suffer to be laden on board the vessel of which he has command, any goods and merchandise, without express order or permission of Congress or their agent of marine, he shall forfeit his commission for such offence."—*Journals of Congress*, iv., 227.

[2] Madison was in the meantime becoming highly impatient to know how the plan for raising revenue was being received in Virginia. He wrote to Edmund Randolph, May 27:

"A letter recd yesterday from Mr F. Webb, inclosing bills in my favor for £200 Virga currency informed me of the successful effort of your friendship for my relief. Mr Ambler informed me that your attempt was for £100 more, but was abridged on a doubt as to the balance due to me. My answer to him by this conveyance will shew that you would have been sufficiently under the mark.

"The next post I hope will bring me your remarks on the Budget of Congress, with the pulse of the Assembly with regard to it. The example of Virga will have great & perhaps decisive influence on the event of it. In Rhode Island they are attacking it in the Newspapers before it has appeared. But that State is swayed by a party which has raised & connected its importance with an opposition to every Contl measure. The bulk of the people are taken in by a belief that, if no general impost on Trade be levied, their State will be able to tax the neighboring States at pleasure. Should all the other States unite

MONDAY JUNE 9TH.

Not States enough assembled to form a Congress. Mr. Clarke signified to those present, that the Delegates of N. Jersey being instructed on the subject of the Back lands he should communicate the Report thereon to his Constituents.

TUESDAY JUNE 10.

The Report on the Cession of Virg[a] was taken up. Mr. Elseworth urged the expediency of deciding immediately on the Cession. Mr. Hamilton joined him, asserting at the same time the right of the U. States. He moved an amendment in favor of private claims. Mr. Clarke was strenuous for the Right of the U. S., and ag[st] waiting longer, (this had reference to the absence of Maryland which had always taken a deep interest in the question.) Mr. Ghorham supported the policy of acceding to the Report. Mr. Fitzsimmons recommended a postponement of the question, observing that he had sent a copy of the Report to the Maryland Delegates. The President was for a postponement till the sense of N. Jersey be known. The Delaware Delegates expecting instructions were for postponing till Monday next. It was agreed at length that a final vote should not be taken till that day. Mr.

heartily in the plan, I do not think any single State will take upon itself the odium & the consequences of persevering in a veto upon it.

"I wish much to know how far your hope was well founded of an introduction of Mr. Jefferson into the Legislature. The hopes of some I find extend to his Mission to Congress. The latter would be exceedingly fortunate &, if his objections are not insuperable ought & I trust will be urged upon him by his friends. I have been also indulging a hope that your return for such periods as would be most interesting, & would least interfere with the exercise of your profession, might be reconciled to your views. Unless temperate & experienced members come in for the ensuing year, I foresee that the exclusions req[d] by the Confederation will make way for a change in the federal Councils not favorable to those catholic arrangements on which the harmony & stability of the Union must greatly depend.

"We have recd. no accession of intelligence either as to the progress of the definitive Treaty, of the bill in the British Parl[t] for commerce with the U. S. or of the negociations among the hungry suitors for the loaves & fishes of the Administration."

M. yielding to the sense of the House, but warning that the opportunity might be lost by the rising of the Legislature of Virg[a].

Mr. Hamilton & Mr. Peters with permission, moved for a recommitment of the Report, in order to provide for Crown titles within the territory reserved to the State. Mr. Madison objected to the motion, since an amendment might be prepared during the week & proposed on Monday next. This was acquiesced in. It was agreed that the President might informally notify private companies & others as well as the Maryland Delegates of the time at which the Report would be taken into consideration.

The order of the day for appointing a Secretary of Foreign Affairs was called for, & none having been put in nomination, the order was postponed. Mr. Bland then nominated Mr. Arthur Lee. Mr. Ghorham nominated Mr. Jefferson, but being told he would not accept, then named Mr. Tilghman. Mr. Higginson then nominated Mr. Jonathan Trumbull. Mr. Montgomery nominated Mr. George Clymer. It was understood that Gen[l] Schuyler remained in nomination.[1]

[1] "Mr. Livingston has taken his final leave of the Department of Foreign Affairs. He would have remained, if such an augmentation of his salary had been made as would have secured him against future expense. But besides the disinclination of several members to augment salaries, there was no prospect of a competent number of States for an appropriation of money until he must have lost the option of Chancellorship of New York. No successor has been yet nominated, although the day for a choice has passed. I am utterly at a loss to guess on whom the choice will ultimately fall. Arthur Lee will be started, if the defect of a respectable competitor should be likely to force votes upon him.

"The general arrangement of the foreign system has been suspended by the thinness of Congress, in part, and partly by the desire of further information from Europe. I fear much the delay will be exceedingly protracted. Nothing but final resignations of the Minister abroad, and the arrival of Foreign Ministers here, will effectually stimulate Congress into activity and decision on the subject. How far, and at what time, the first cause will operate is precarious. The second seems less so."—Madison to Jefferson, June 10, 1783, Madison Papers (1840).

On the same day he wrote to Edmund Randolph—

"We have rec[d] the instruction relative to comercial Treaties. The principle on which it is founded corresponds precisely with my idea. But I know not how far the giving an opportunity to the States of exercising their judgments

WEDNESDAY JUNE 11.[1]

See Journals, secret and public.

THURSDAY JUNE 12.

The Instruction in the Secret Journal touching the principles &c of the Neutral Confederacy, passed unanimously.

on proposed Treaties will correspond in all cases with the doctrine of the Confederation which provides for secrecy in some such cases. The deviation however if there be any is trivial, and not being an intended one can have no ill consequences. No progress has been made towards a Treaty with G. B. owing partly to a desire of hearing further from Europe & partly to the paucity of States represented in Congs. It would seem that the plan of regulating the Trade with America by a Parliamentary Act has been exchanged by the present Ministry for an intended Treaty for that purpose. Mr. Laurens was asked by Mr. Fox whether the American Ministers had powers for a commercial Treaty. His answer was that he believed so; that a revocation of Mr. Adams's powers had appeared some time ago in print, but he considered the publication as spurious. From this it wd seem that this Act of Cong· had never been communicated by the latter to his colleagues. He lately complained of the revocation in a very singular letter to Congr. I consider it as a very fortunate circumstance that this business is still within our controul, especially as the policy of authorizing *conditional* Treaties only in Europe is so fully espoused by Virginia. . . .

"The offers of N. Y. & Maryld of a seat for Congs are postponed till Octr next in order to give time for other offers & for knowing the sense of the States on the subject. Copies of those Acts are to be sent to the Executives of each State. . . .

"Congress have resumed at length the Cession of Virga· the old obnoxious report was committed, and a new report has been made which I think a fit basis for a compromise. A copy of it is inclosed for the Govr·. I have also transcribed it in my letter to Mr. Jones. As it tacitly excludes the pretensions of the companies, I fear obstacles may arise in Congs from that quarter. Clarke from N. Jersey informed Congs· that the Delegates from that State being fettered by instructions, must communicate the plan to their constituents. If no other causes of delay should arise the thinness of Congs at present will prove a material one. I am at some loss for ye policy of the companies in opposing a compromise with Virga· They can never hope for a specific restitution of their claims, they can never even hope for a cession of the country between the Alleghany & the Ohio by Virga., as little can they hope for an extension of a

[1] The Secretary of War was authorized to furlough certain Pennsylvania, Delaware, Maryland and Virginia troops.

The Resolution as reported by the Committee, being in a *positive* style, and *eight* States only being present, the question occurred whether nine States were not necessary. To avoid the difficulty a negative form was given to the Resolution, by which the preamble became somewhat unsuitable. It was suffered to pass however rather than risk the experiment of further alteration.

FRIDAY JUNE 13.

The mutinous memorial from the Sergeants was rec$^{d}$ & read. It excited much indignation & was sent to the Secretary at War.

MONDAY JUNE 16.

No Congress.

TUESDAY JUNE 17.

The day was employed chiefly in considering the Report on the Journal relative to the Department of Finance.[1] Some thought it ought to lie on the files; some that it ought to receive a vote of approbation, and that the Superintendent, should, for the period examined, be acquitted of further responsibility. Mr. Gorham particularly was of that opinion. Finally the Report was entered on the Journal without any Act of Congress thereon, by a unanimous concurrence.

jurisdiction of Cong$^{s}$ over it by force. I should suppose therefore that it w$^{d}$ be their truest interest to promote a general cession of the vacant Country to Congress and in case the titles of which they have been stripped s$^{d}$ be deemed reasonable, and Cong$^{s}$ s$^{d}$ be disposed to make any equitable compensation, Virg$^{a}$ w$^{d}$ be no more interested in opposing it than other States."— *Mad. MSS.*

[1] The committee commended the conduct of the department and found all public monies entrusted to continental officers duly accounted for, but that the States had not accounted for the "specifics by them respectively supplied for the use of the continent," and that a number of people who had been entrusted with public money neglected or refused to settle their accounts and could not be compelled to do so, because of the want of necessary laws in the States. They found that the whole sum brought into the public treasury from May 14, 1781, to January 1, 1783, amounted to $2,726,304, and the whole expenditure $3,131,046, the expenditures exceeding the receipts in 1782 by $404,713, "which was supplied by a circulation in the notes of the financier." They were ordered to consider what measures might be necessary to compel accounts being rendered by delinquent persons.— *Journals of Congress*, iv., 228–241.

WEDNESDAY JUNE 18.

Nothing done.[1]

[1] "The definitive Treaty is not yet on this side the watr , nor do we yet hear what stage it is in on the other side. Mr. Dana informs us in a letter of the 17 of Feby that, in consequence of proper encouragement he had finally announced himself at the Court of St. Petersbg , but does not gratify us with a single circumstance that ensued. The Gazette of this morning inclosed contains the latest intelligence from the British Parliamt which I have seen.

"The measure of furloughing the troops enlisted for the war has been carried into effect with the main army, and will save a great expense to the public. The prospect which it presented to the officers who were to retire from their subsistence without receivg the means of subsistence elsewhere produced a very pathetic representation to the Commander in chief. His answer by rectifying some errors on which it dwelt, and explicitly giving it as his opinion that Congress had now done every thing wch could be expected from them towards fulfilling the engagements of their Country, had the effect to which it was entitled. The troops in the barracks at this place, emboldened by the arrival of a furloughed Regt returning to Maryland, sent in a very mutinous remonstrance to Congress, signed by the non-commissioned officers in behalf of the whole. It painted the hardships which they had suffered in the defence of their Country & the duty of their Country to reward them, demanding a satisfactory answer the afternoon on which it was sent in, with a great threat of otherwise taking such measures as would right themselves. The prudent & soothing measures taken by the Secy of War & Genl St. Clair have I believe obviated the embarrassment.

"Another embarrassment, and that not a small one will soon be laid before them by a Committee. Genl Washington, the Secy of War and all the professional men who have been consulted, report that at least 3 or 4 Regts will be essential as a peace establishmt for the U. States, & that this establishmt ought to be a Continental one. West point, the frontier posts to the Westward, and a few Garrisons on the sea-shore, are conceived by them to be indispensable. Some naval force is deemed at least equally so, with a few docks & protections for them. On looking into the Articles of Confederation, the military power of Congress, in time of peace, appears to be at least subject to be called in question. If Congress put a construction on them favorable to their own power, or even if they ask the States to sanction the exercise of the power, the present paroxysm of jealousy may not only disappoint them, but may exert itself with more fatal effect on the Revenue propositions. On the other side to renounce such a construction, and refer the establishment to the separate & internal provision of the States, will not only render the plan of defence either defective in a general view or oppressive to particular States, but may hereafter when the tide of prejudice may be flowing in a contrary direction, expose them to the reproach of unnecessarily throwing away a power necessary for the good of the Union, and leaving the whole at the mercy of a single State. The only expedient

THURSDAY JUNE 19.

A motion [1] was made by Mr. Williamson seconded by Mr. Bland, to recommend to the States to make it a part of the Confederation, that whenever a *fourteenth* State should be added to the Union, *ten* votes be required in cases now requiring nine. It was committed to Mr. Williamson, Mr. Hamilton & Mr. Madison. The motion had reference to the foreseen creation of the western part of N. Carolina into a separate State.

for this dilemma seems to be delay; but even that is pregnant with difficulties equally great; since on the arrival of the definitive Treaty, Congs must in pursuance of such a neutral plan suffer the whole military establishmt to be dissolved, every Garrisoned-post to be evacuated, and every strong hold to be dismantled. The remaining ships of war too must be sold, and no preparatory steps taken for future emergencies on that side.

"I am exceedingly pleased to find Mr. Jefferson's name at the head of the new Delegation. I hope it has been placed there with his knowledge and acquiescence.

"The order of the day for electing a Secy of F. Affairs was called for on Tuesday last, but no nominations having been then made the business was put off till the present day. The nominations since made are, Mr. A. Lee by Mr. Bland; Mr. Jonathan Trumbull, Jur, by Mr. Higginson; Col: Tilghman by Mr. Ghorham, Mr. George Clymer by Mr. Montgomery. Genl Schuyler has remained on the list since the fall, but was withdrawn by the Delegates of N. Jersey at the instance of Mr. Hamilton. Mr. Jefferson was nominated by Mr. Ghorham; but withdrawn also on intimation that he would not undertake the service."—Madison to Edmund Randolph, June 17, 1783.—*Mad. MSS.*

[1] Motion of Mr. Williamson 2ded by Mr. Bland June 19, 1783, comited to Mr. Williamson, Mr. Hamilton & Mr. Madison.

Whereas the safety and peace of the U. S. are greatly interested in the Nº of States that may be reqd to vote on Questions of a particular class: and whereas it is provided by the 9th article of the Confederation that the U S in C assd shall never engage in a war nor grant letters of marque & reprisal in time of peace, nor enter into any Treaties or Alliances nor coin money, nor regulate the value thereof, nor ascertain the sums & expences necessary for the defence & welfare of the U. S. or any of them, nor emit bills nor borrow money on the Credit of the U. S. nor appropriate money nor agree upon the Nº of Vessels of War to be built or purchased or the nº of land or Sea forces to be raised, nor appt a Comder in chief of the army or Navy, unless nine States assent to the same. It is also provided by the eleventh Art: That no Colony except Canada shall be admitted into the Union unless such admission be agreed to by nine States, but no provision is made for the nº of States that may be reqd to agree in determining such questions when the presᵗ nº of States shall have been increased:

Information was rec$^{d}$ by Congress, from the Executive Council of Pennsylvania, that 80 Soldiers, who would probably be followed by the discharged soldiers of Armand's Legion were on the way from Lancaster to Philadelph$^{a}$ in spite of the expostulations of their officers, declaring that they would proceed to the seat of Congress and demand justice, and intimating designs ag$^{st}$ the Bank. This information was committed to Mr. Hamilton, Mr. Peters, and Mr. Ellsworth, for the purpose of conferring with the Executive of Pennsylvania and taking such measures as they should find necessary. The Committee after so conferring informed Congress, that it was the opinion of the Executive that the Militia of Philadelp$^{a}$ would probably not be willing to take arms before their resentments should be provoked by some actual outrage ; that it would hazard the authority of Gov$^{t}$ to make the attempt, & that it would be necessary to let the soldiers come into the city, if the officers who had gone out to meet them could not stop them.

At this information Mr. Izard Mr. Mercer & others being much displeased, signified that if the City would not support Congress, it was high time to remove to some other place. Mr. Wilson remarked that no part of the U. States was better disposed towards Congr$^{s}$ than Pennsylvania, where the prevailing sentiment was, that Congress had done every thing that depended on them. After some conversation, and directing Gen$^{l}$ St. Clair, who had gone out of town, to be sent for, and it appearing that nothing further could be done at present, Congress adjourned. The Sec$^{y}$ at War had set out for Virginia yesterday. It was proposed to send for him, but declined as he had probably gone too great a distance, and Gen$^{l}$ St. Clair, it was supposed, would answer.

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And Whereas the determination of these great questions by 9 States alone when the orig$^{l}$ n$^{o}$ may be considerably increased w$^{d}$ be a sufficient departure from the Spirit of the Confederation & might prove dangerous to the Union, Therefore Res$^{d}$ that whenever a 14 State s$^{d}$ be admit$^{d}$ into y$^{e}$ pres$^{t}$ Union, the vote & agre$^{t}$ of 10 S$^{ts}$ shall become necess$^{y}$ for determg all those quest$^{s}$ in y. Conf$^{n}$ of U. S. w$^{ch}$ are now determ$^{d}$ by no less than 9.

Res$^{d}$ that y$^{e}$ ass$^{t}$ of 3 add$^{l}$. States shall be necess$^{y}$ in determg those questions for every 4 add$^{l}$. Sts Y$^{t}$ may be adm$^{d}$ into the Union.

Res$^{d}$ that y$^{e}$ sev$^{l}$. Sts be advised to authorise their respective Delag$^{s}$ to subscribe & ratify the above Resolves as part of the instrum$^{t}$ of Union. [Note in MS.]

FRIDAY JUNE 20.

The Soldiers from Lancaster came into the City under the guidance of sergeants. They professed to have no other object than to obtain a settlement of Accounts, which they supposed they had a better chance for at Philadelphia than at Lancaster. (See the Report of the Committee on this subject.)

The Report of the Committee (see the Journal) on the territorial Cession of Virg[a] being taken up, & the amendment on the Journal proposed by Mr. McHenry & Mr. Clarke, being lost,[1] Mr. Bedford proposed that the second condition of the Cession be so altered as to read, "that in order to comply with the said Condition, so far as the same is comprised within the Resolution of Oc[r] the 10, 1780, on that subject, Commissioners as proposed by the Committee, be appointed &c and that instead of "for the purposes mentioned in the said Condition," be substituted "agreeably to that Resolution." In support of this alteration, it was urged by Mr. McHenry, Mr. Bedford, & Mr. Clarke that the terms used by Virginia were too comprehensive & indefinite. In favor of the Report of the Committee, it was contended by Mr. Ellsworth that the alteration was unreasonable inasmuch as *Civil* expenses were on the same footing of Equity as Military and that a compromise was the object of the Committee. Sundry members were of opinion that Civil expences were comprised in the Resolution of October the 10. 1780. Mr. Bland & Mr. Mercer acceded to the alteration proposed. Mr. Madison alone dissented, and therefore did not insist on a call for the votes of the States. Mr. McHenry moved but without being seconded "that the Commissioners instead of deciding finally should be authorized to report to Congress only."

In the course of the debate Mr. Clarke laid before Congress the Remonstrance of New Jersey as entered on the Journal.[2]

[1] The motion was "that all reasonable and necessary expenses, incurred in subduing the British posts at the Kaskaskies and St. Vincents, and the expense of maintaining garrisons there, or to the northwest of the river Ohio, since the reduction of the said posts, ought to be allowed, being agreeable to the aforesaid act." New Jersey, Pennsylvania and Delaware voted aye.—*Journals of Congress*, iv., 230.

[2] The remonstrance expressed surprise at the matter coming up for considera-

As the Report had been postponed at the instance of the President & other Delegates of N. Jersey, in order to obtain this answer from their Constituents, and as the Remonstrance was dated on the 14th of June, and was confessed privately by Mr. ———, to have been in possession of the Delegates on Monday last, an unfairness was complained of. They supposed that if it had been laid before Congress sooner the copy which would have been sent by the Virga Delegates might hasten the opening of the Land Office of that State. Mr. Clarke said there were still good prospects, and he did not doubt that the time would yet come when Congress would draw a line limiting the States to the westward & say thus far shall ye go & no further.

Mr. Bedford moved that with respect to the 4th & 5th Conditions of the Cessions, "it be declared, that Clark & his men, & the Virginia Line, be allowed the same bounty beyond the Ohio as was allowed by the U. S. to the same Ranks." This motion was seconded by ———— ; Congress adjourned without debating it ; there being seven States only present and the spirit of compromise decreasing.

From several circumstances there was reason to believe that R. Island, N. Jersey, Pennsylvania & Delaware, if not Maryland also retained latent views of confining Virginia to the Alleghany Mountains.

Notice was taken by Mr. Madison of the error in the Remonstrance, which recites "that Congress had declared the Cession of Virginia to be a partial one."

SATURDAY JUNE 21 1783.

The mutinous soldiers presented themselves, drawn up in the street before the State House, where Congress had assembled.

tion and called attention to the previously expressed claim of New Jersey to its full proportion of all vacant territory. "We cannot be silent," it said, "while viewing one state aggrandizing herself by the unjust detention of that property, which has been procured by the common blood and treasure of the whole, and which on every principle of reason and justice, is vested in Congress for the use and general benefit of the union they represent." It was urged that the cession be not accepted, but that Congress press upon Virginia "to make a more liberal surrender of that territory of which they claim so boundless a proportion."—*Journals of Congress*, iv., 231.

The executive Council of the State sitting under the same roof, was called on for the proper interposition. President Dickinson came in, and explained the difficulty under actual circumstances, of bringing out the militia of the place for the suppression of the mutiny. He thought that without some outrages on persons or property, the militia could not be relied on. Gen[l] St. Clair then in Philad[a] was sent for, and desired to use his interposition, in order to prevail on the troops to return to the Barracks. His report gave no encouragement.

In this posture of things, it was proposed by Mr. Izard that Cong[s] sh[d] adjourn. It was proposed by Mr. Hamilton, that Gen[l] St. Clair in concert with the Executive Council of the State should take order for terminating the mutiny. Mr. Reed moved that the Gen[l] sh[d] endeavour to withdraw the troops by assuring them of the disposition of Cong[s] to do them justice. It was finally agreed that Cong[s] sh[d] remain till the usual hour of adjournment, but without taking any step in relation to the alledged grievances of the Soldiers, or any other business whatever. In the meantime the Soldiers remained in their position, without offering any violence, individuals only occasionally uttering offensive words and wantonly pointed their Muskets to the Widows of the Hall of Congress. No danger from premeditated violence was apprehended, But it was observed that spirituous drink from the tippling houses adjoining began to be liberally served out to the Soldiers, and might lead to hasty excesses. None were committed however, and about 3 O'C., the usual hour Cong· adjourned ; the Soldiers, tho in some instances offering a mock obstruction, permitting the members to pass thro their ranks. They soon afterwards retired themselves to the Barracks.

In the Evening Congress re-assembled and passed the resolutions on the Journal, authorizing a Committee to confer anew with the Executive of the State and in case no satisfactory grounds sh[d] appear for expecting prompt and adequate exertions for suppressing the mutiny & supporting the Public authority, authorizing the President, with the advice of the Committee, to summon the members to meet at Trenton or Princeton in New Jersey.

The conference with the Executive produced nothing but a

repetition of doubts concerning the disposition of the militia to act unless some actual outrage were offered to persons or property. It was even doubted whether a repetition of the insult to Congress would be a sufficient provocation.

During the deliberations of the Executive, and the suspense of the Committee, Reports from the Barracks were in constant vibration. At one moment the Mutineers were penitent & preparing submissions; the next they were meditating more violent measures.[1] Sometimes the bank was their object; then the seizure of the members of Congress with whom they imagined an indemnity for their offence might be stipulated. On Tuesday about 2 O'Clock, the efforts of the State authority being despaired of, & the Reports from the Barracks being unfavorable, the Committee advised the President to summon Congress to meet at Princeton which he did verbally as to the members present, leaving behind him a general Proclamation for the Press.

After the departure of Cong^s^, the Mutineers submitted, and most of them accepted furloughs under the Resolution of Congress, on that subject. At the time of submission they betrayed their leaders the chief of whom proved to be a Mr. Carberry a deranged officer, and a Mr. Sullivan a Lieutenant of Horse; both of whom made their escape. Some of the most active of the sergeants also ran off.

[1] "Their grievances, all terminate as you may suppose, in the want of their pay which Cong^s^ are unable to give them; and the information we received from the States is far from opening any fresh sources for that purpose. Indeed the prospect on the side of the latter compared with the symptoms beginning to appear on the side of the army is to the last degree afflicting to those who love their country and aim at its prosperity. If I had leisure to use a Cypher, I would dilate much upon the present state of our Affairs; which as it is I must defer to another occasion.

I was prepared by Mr. Jones's late letters for the fate to which the Budget of Cong^s^ has been consigned, but the circumstances under which it arrived here gave peculiar pungency to the information. I wish that those who abuse Cong^s^, and baffle their measures, may as much promote the public good as they profess to intend. I am sure they will not do it more effectually than is intended by some at least, of those who promote the measure of Congress." Madison to Edmund Pendleton June 24, 1783.—*Mad. MSS.*

END OF VOL. I.

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